



भारत का राजपत्र The Gazette of India

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii) PART II—Section 3—Sub-Section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएँ
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(other than the Ministry of Defence)

गृह मंत्रालय

नई दिल्ली, 25 सितम्बर, 1998

का. आ. 1987.—राष्ट्रपति, केन्द्रीय सिविल सेवा (वर्गीकरण) (नियंत्रण और अपील) नियम, 1965 के नियम 9 के उपनियम (2), नियम 12 के उपनियम (2) के खंड (ख) और नियम 24 के उपनियम (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के गृह मंत्रालय की अधिसूचना सं. का. आ. 2000 तारीख 2 सितम्बर, 1989 में निम्नलिखित और संशोधन करने का निर्देश देते हैं, अर्थात् :—

उक्त अधिसूचना की अनुसूची के भाग 2 में,—

(अ) प्रविष्टि संख्या (1) में—(i)

I. स्तम्भ सं. या (1) के नीचे “(i) आसूचना-अध्यापक के मुख्यालय में है” कोष्ठक अंक शब्दों के पश्चात् निम्नलिखित कोष्ठक, अंक और शब्द जोड़े जाएंगे, अर्थात् :

(i) (क) “विदेशियों विषयक प्रादेशिक रजिस्ट्रीकरण अधिकारी, दिल्ली के कार्यालय में है”।

II. स्तम्भ 3 के नीचे “सहायक निदेशक/संयुक्त सहायक निदेशक (स्थापना)” शब्दों के पश्चात् निम्नलिखित कोष्ठक, अंक और शब्द जोड़े जाएंगे, अर्थात् :—

“(क) विदेशियों विषयक रजिस्ट्रीकरण अधिकारी, दिल्ली में है”।

III. स्तम्भ 4 के नीचे “सभी” शब्द के पश्चात् निम्नलिखित कोष्ठक और अंक जोड़े जाएंगे, अर्थात् :—

“(क) (i) से (iv)”।

(आ) प्रविष्टि संख्या (ii) में :—

I. स्तम्भ 1 के नीचे, “समनुषंगी आसूचना ब्यूरो, गिलॉग से भिन्न समनुषंगी आसूचना ब्यूरो के मुख्यालय में है” शब्दों के पश्चात् निम्नलिखित कोष्ठक, अंक और शब्द जोड़े जाएंगे, अर्थात् :—

“(ii) (क) विदेशियों विषयक प्रादेशिक रजिस्ट्रीकरण अधिकारी, कलकत्ता के कार्यालय में है ।

(ख) विदेशियों विषयक प्रादेशिक रजिस्ट्रीकरण अधिकारी, मुम्बई में है ।

II. स्तम्भ 3 के नीचे, “सहायक निदेशक/केन्द्रीय आसूचना अधिकारी/संयुक्त सहायक निदेशक (स्थापना)” शब्दों के पश्चात् निम्नलिखित कोष्ठक, अंक और शब्द जोड़े जाएंगे, अर्थात् :—

“(क) विदेशियों विषयक प्रादेशिक रजिस्ट्रीकरण अधिकारी, कलकत्ता में है ।

(ख) विदेशियों विषयक प्रादेशिक रजिस्ट्रीकरण अधिकारी, मुम्बई में है ।

III. स्तम्भ 4 के नीचे “सभी” शब्द के पश्चात् निम्नलिखित कोष्ठक, अंक और शब्द जोड़े जाएंगे, अर्थात् :—

“(क) (i) से (1) ”

(ख) (i) से (1) ।”

IV. स्तम्भ 5 के नीचे, विद्यमान शब्द, “उपनिदेशक समनुषंगी आसूचना ब्यूरो” के स्थान पर “संयुक्त/उपनिदेशक, समनुषंगी आसूचना ब्यूरो” शब्द रखे जाएंगे ।

भाग-III में,—

(अ) प्रविष्टि संख्या 1 में :—

I. स्तम्भ संख्या (1) के नीचे “आसूचना ब्यूरो के मुख्यालय में” शब्दों के पश्चात् निम्नलिखित कोष्ठक, अंक और शब्द जोड़े जाएंगे अर्थात् :—

“(i) (क) विदेशियों विषयक प्रादेशिक रजिस्ट्रीकरण अधिकारी, दिल्ली के कार्यालय में है” ।

II. स्तम्भ संख्या 3 के नीचे, “सहायक निदेशक/संयुक्त सहायक निदेशक (स्थापना)” शब्द और कोष्ठक के पश्चात् निम्नलिखित कोष्ठक, अंक और शब्द जोड़े जाएंगे, अर्थात् :—

“(क) विदेशियों विषयक प्रादेशिक रजिस्ट्रीकरण अधिकारी, दिल्ली में है ।

III. स्तम्भ संख्या 4 के नीचे, “सभी” शब्द के पश्चात् निम्नलिखित कोष्ठक, अंक और शब्द जोड़े जाएंगे, अर्थात् :—

“(क) (i) से (iv) ।”

(आ) प्रविष्टि संख्या (ii) में,—

I. स्तम्भ संख्या 1 के नीचे “समनुषंगी आसूचना ब्यूरो, गिलॉग से भिन्न समनुषंगी आसूचना ब्यूरो के मुख्यालय में” शब्दों के पश्चात् निम्नलिखित कोष्ठक, अंक और शब्द जोड़े जाएंगे, अर्थात् :—

“(ii) (क) विदेशियों विषयक प्रादेशिक रजिस्ट्रीकरण अधिकारी, कलकत्ता के कार्यालय में है ।

(ख) विदेशियों विषयक प्रादेशिक रजिस्ट्रीकरण अधिकारी, मुम्बई के कार्यालय में है ।

II. स्तम्भ संख्या 3 के नीचे “सहायक निदेशक/केन्द्रीय आसूचना अधिकारी/संयुक्त सहायक निदेशक (स्थापना)” शब्दों के पश्चात् निम्नलिखित कोष्ठक, अंक और शब्द जोड़े जाएंगे, अर्थात् :—

“(क) विदेशियों विषयक प्रादेशिक रजिस्ट्रीकरण अधिकारी, कलकत्ता में है ।

(ख) विदेशियों विषयक प्रादेशिक रजिस्ट्रीकरण अधिकारी, मुम्बई में है ।

III. स्तम्भ संख्या 4 के नीचे “सभी” शब्द के पश्चात् निम्नलिखित कोष्ठक, अंक और शब्द जोड़े जाएंगे, अर्थात् :—

“(क) (i) से (iv)

(ख) (i) से (iv) ।”

IV. स्तम्भ संख्या 5 के नीचे विद्यमान शब्द “उपनिदेशक समनुषंगी आसूचना ब्यूरो” के स्थान पर “संयुक्त/उपनिदेशक, समनुषंगी आसूचना ब्यूरो” शब्द रखे जाएंगे ।

[सं. 14/एसओ(सी)/97(2)/आई.बी.एस. I]

यू. सी. नांगिया, अवसर सचिव

टिप्पण :— मुख्य नियम भारत के राजपत्र में का.आ. 2000 दिनांक 2 नवम्बर, 1989 द्वारा प्रकाशित हुए थे और तत्पश्चात् का.आ. 2314 दिनांक 5, सितम्बर, 1992 द्वारा संशोधित कि गये ।

MINISTRY OF HOME AFFAIRS

New Delhi the 25th September, 1998

S.O. 1987.—In exercise of the powers conferred by sub-rule (2) of rule 9, clause (b) of sub-rule (2) of rule 12 and sub-rule (1) of rule 24 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, the President hereby directs that the following amendments shall be made in the notification of the Government of India in the Ministry of Home Affairs No. S.O. 2000 dated the 2nd September, 1989, namely :

In the Schedule to the said notification, in Part-II—

(A) against the entry number (1) :

- I. under the Column number (1) after the words “at the Headquarters of Intelligence Bureau”, the following words shall be added, namely :
“(i)(a) in the office of the Foreigners Regional Registration Officer, Delhi.”
- II. under Column 3, after the words “Assistant Director/Joint Assistant Director (Establishment)”, the following words shall be added, namely :
“(a) Foreigners Regional Registration Officer, Delhi.”
- III. under Column 4, after the word ‘ALL’, the following words shall be added, namely :
“(a) (i) to (iv).”

(B) against the entry number (ii) :

- I. under Column 1, after the words “at the Headquarters of Subsidiary Intelligence Bureau other than Subsidiary Intelligence Bureau, Shillong”, the following words shall be added, namely :
“(ii)(a) in the Office of the Foreigners Regional Registration Officer, Calcutta.
(ii)(b) In the office of the Foreigners Regional Registration Officer, Mumbai.”
- II. under Column 3, after the words “Assistant Director/Central Intelligence Officer/Joint Assistant Director (Establishment.)” the following words shall be added, namely :
“(a) Foreigners Regional Registration Officer, Calcutta.
(b) Foreigners Regional Registration Officer, Mumbai.”
- III. under Column 4, after the word ‘All’ the following words shall be added, namely :
(a) (i) to (iv),
(b) (i) to (iv).”
- IV. Under Column 5, against the existing words “Deputy Director Subsidiary Intelligence Bureau”, the following words shall be substituted namely : “Joint/Deputy Director, Subsidiary Intelligence Bureau.”

In Part-III,—

(A) against the entry number (1) :

- I. under the Column number (1) after the words “at Intelligence Bureau Headquarters”, the following words shall be added, namely :
“(i)(a) in the office of the Foreigners Regional Registration Officer, Delhi.”
- II. under the Column number 3, after the words “Assistant Director/Joint Assistant Director (Establishment)”, the following words shall be added, namely :
“(a) Foreigners Regional Registration Officer, Delhi.”
- III. under column 4, after the word “All”, the following words shall be added, namely :
“(a) (i) to (iv).”

(B) against the entry number (ii),—

- I. under Column 1, after the words “at the Headquarters of Subsidiary Intelligence Bureau other than Subsidiary Intelligence Bureau, Shillong”, the following words shall be added, namely :
“(ii)(a) in the Office of the Foreigners Regional Registration Officer, Calcutta.
(ii)(b) in the office of the Foreigners Regional Registration Officer, Mumbai.”

II. under Column 3, after the words “Assistant Director /Central Intelligence Officer/Joint Assistant Director (Establishment)”, the following words shall be added, namely :

“(a) Foreigners Regional Registration Officer, Calcutta.

(b) Foreigners Regional Registration Officer, Mumbai.”

III. under Column 4, after the word ‘All’, the following words shall be added, namely :

“(a) (i) to (iv)

(b) (i) to (iv).”

IV. under Column 5, against the existing words “Deputy Director Subsidiary Intelligence Bureau”, the following words shall be substituted, namely : “Joint/Deputy Director, Subsidiary Intelligence Bureau.”

[No. 14/SO(C)/97(2)/1B/Pers.1]

U. C. NANGIA, Under Secy.

Note :— The principal rules were notified vide number S. O. 2000 dated the 2nd September, 1989 in the Gazette of India and were subsequently amended vide number S. O. 2314 dated the 5th September, 1992.

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 24 सितम्बर, 1998

का. आ. 1988 :—केन्द्रीय सरकार एतद्द्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय अन्वेषण ब्यूरो के निम्नलिखित अभियोजन अधिकारियों को विचारण न्यायालयों में दिल्ली विशेष पुलिस स्थापना द्वारा संस्थित मामलों तथा किसी राज्य अथवा संघ राज्य क्षेत्र जिस पर पूर्वोक्त धारा के उपबंध लागू होते हैं, में विधि द्वारा स्थापित पुनरीक्षण अथवा अपील न्यायालयों में इन मामलों से उद्भूत अपीलों पुनरीक्षणों अथवा अन्य विषयों का संचालन करने के लिए विशेष लोक अभियोजक के रूप में नियुक्त करती है :—
सर्वश्री

1. सुन्दर लाल

2. बिश्वनाथ कापड़ी

[सं. 225/1/98-ए.बी.डी.—II]

हरि सिंह, अवसर सचिव

MINISTRY OF PERSONNEL, PUBLIC
GRIEVANCES AND PENSION

(Department of Personnel & Training)

New Delhi, the 24th September, 1998

S.O. 1988.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints the following Prosecuting Officers of the Central Bureau of Investigation as Special Public Prosecutors for the conduct of cases instituted by Delhi Special Police Establishment in the trial courts and appeals, revisions or other matters arising out of these cases in revisional or appellate courts established by Law

in any State or Union Territory to which the provisions of the aforesaid section apply.

S/Shri

(1) Sunder Lal

(2) Bishwanath Kapri

[No. 225/1/98-AVD. II]

HARI SINGH, Under Secy.

वाणिज्य मंत्रालय

(विदेश व्यापार महानिदेशालय)

आदेश

नई दिल्ली, 23 सितम्बर, 1998

का. आ. 1989 :—मैसर्स सीग्राम मैनुफैक्चरिंग प्रा. लि., 303, मानसरोवर, 90, नेहरू प्लेस, नई दिल्ली 110019 को 4,27,500 बी.एल. (कोड—51) कन्स्ट्रैट अल्कोहल बेभरेज्यस के आयात हेतु 3,04,00,000 (तीन करोड़ चार लाख रुपये मात्र) का आयात लाइसेंस सं. पी/ए/0043235 दिनांक 3-12-97 जारी किया गया था।

फर्म ने इस आधार पर उपर्युक्त लाइसेंस की डुप्लीकेट विनिमय नियंत्रण प्रति जारी करने हेतु आवेदन किया है कि विनिमय नियंत्रण प्रति खो गई है अथवा अस्थानस्थ हो गई है। आगे यह बताया गया है कि विनिमय नियंत्रण प्रति को सीमाशुल्क प्राधिकारी आई सी डी तुगलकाबा के पास पंजीकृत किया गया था और लाइसेंस की कीमत का बिल्कुल उपयोग नहीं किया गया है।

अपने कथन के समर्थन में, लाइसेंसधारक ने नोटरी पब्लिक, दिल्ली के समक्ष दि. 3-9-98 को शपथ लेकर स्टैम्प पेपर पर एक शपथ पत्र दाखिल किया है। तदनुसार मैं संतुष्ट हूँ कि मूल विनिमय नियंत्रण प्रति सं. पी/ए/0043235 दि. 3-12-97 फर्म द्वारा खो गई है अथवा अस्थानस्थ हो गई है विदेश व्यापार महानिदेशालय, नई दिल्ली, द्वारा सांविधिक आदेश संख्या—1060 (अ)

दि. 31-12-93 के तहत प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स सीग्राम मैन्युफैक्चरिंग प्रा. लि., नई दिल्ली को जारी विनियम नियंत्रण प्रति सं. पी/ए/0043235 दि. 3-12-97 को निरस्त किया जाता है।

उक्त लाइसेंस की डुप्लीकेट विनियम नियंत्रण प्रति पार्टी को अलग से जारी की जा रही है।

[फा. सं. एसपीएल/490/ए.एम-98/एस एल एस/960]

विजय कुमार, उप महानिदेशक, विदेश व्यापार

MINISTRY OF COMMERCE

(Directorate General of Foreign Trade)

ORDER

New Delhi, the 23rd September, 1998

S. O. 1989.—M/s. Seagram Manufacturing P. Ltd., 303, Mansarovar, 90, Nehru Place, New Delhi-110019 were granted an import licence No. P/A/0043235 dated 3-12-97 for Rs. 3,04,00,000 (Rupees Three crore and four lakhs only) for import of 4,27,500 BL (Code 51) of Concentrate of Alcoholic Beverages.

The firm has applied for issue of Duplicate copy of Exchange Control Purposes copy of the above mentioned licence on the ground that the original Exchange Control Copy of the licence has been lost or misplaced. It has further been stated that the Exchange Control Copy of the licence was registered with the ICD Tughlakabad Customs House and as such the value of Exchange Control Purpose copy has not been utilised.

In support of their contention, the licensee has filed an affidavit on stamped paper duly sworn in before a Notary Public, Delhi on 3-9-98. I am accordingly satisfied that the original Exchange Control Copy of Import Licence No. P/A/0043235 dated 3-12-97 has been lost or misplaced by the firm. In exercise of the powers conferred on me under order S.O. 1060(E) dt. 31-12-93 issued by DGFT, New Delhi. Exchange Control Copy No. P/A/0043235 dated 3-12-97 issued to M/s. Seagram Manufacturing Pvt. Ltd., New Delhi is hereby cancelled.

Duplicate Exchange Control Copy of the said licence is being issued to the party separately.

[F. No. Spl/490/AM-98-SLS/960]

VIJAY KUMAR, Dy. Director General of

Foreign Trade

नई दिल्ली, 24 सितम्बर, 1998

का. आ. 1990.—मै. सुमी मदरसन इन्टोग्रेटेड टेक्नालाजी लि., नोएडा को ईपीसी जी स्कीम के अंतर्गत पूंजीगत माल के आयात के लिए 3,10,55,726 (तीन करोड़

एक लाख पचपन हजार सात सौ और छब्बीस रुपए) का आयात लाइसेंस सं. पी सी जी/2133881 दिनांक 27-1-95 मंजूर किया गया था।

2. फर्म ने ऊपर उल्लिखित लाइसेंस की विनियम नियंत्रण प्रयोजन की अनुलिपि जारी करने के लिए इस आधार पर आवेदन किया है कि लाइसेंस की मूल विनियम नियंत्रण प्रयोजन प्रति खो गयी है/अस्थानस्थ हो गयी है। आगे यह भी कहा गया है कि लाइसेंस की विनियम नियंत्रण प्रयोजन प्रति को सीमा शुल्क सदन के पास पंजीकृत कराया गया था और 3,01,55,726/ रु. की राशि का उपयोग कर लिया गया है तथा उपयोग न की गई राशि शून्य है।

3. अपने कथन के समर्थन में लाइसेंसधारी ने स्टाम्प पेपर पर हलफनामा प्रस्तुत किया है। तदनुसार मैं सन्तुष्ट हूँ कि आयात लाइसेंस सं. पी/सी जी/ 2133881 दिनांक 27-1-95 की विनियम नियंत्रण प्रयोजन प्रति फर्म द्वारा खो गई या अस्थानस्थ हो गई है। यथासंशोधित आय (नियंत्रण) आदेश 1955 दिनांक 7-12-1955 की उपधारा 9 (सी सी) के अन्तर्गत प्रदत्त शक्तियों का प्रयोग करते हुए मै. सुमी मदरसन इन्टोग्रेटेड टेक्नालाजी लि. को जारी की गई उक्त मूल विनियम नियंत्रण प्रयोजन प्रति सं. पी/सी जी/2133881 दिनांक 27-1-95 को एतद्वारा निरस्त किया जाता है।

4. उक्त लाइसेंस की डुप्लीकेट विनियम नियंत्रण प्रयोजन प्रति पार्टी को अलग से जारी की जा रही है।

[फा. सं. 18/929/ए/एम 95/ई पी सी जी-2 / 266]

के. चन्द्रामती, उप महानिदेशक, विदेश व्यापार

New Delhi, the 24th September, 1998

S.O. 1990.—M/s. Sumi Motherson Intergrated Technologies Ltd., Noida were granted an import licence No. P. CG/2133881 dated 27-1-95 for Rs. 3,01,55,726 (Rupees Three Crores One Lakh Fifty Five Thousand Seven Hundred and Twenty Six only) for import of capital goods under EPCG Scheme.

2. The firm has applied for issue of duplicate copy of Exchange Control Purpose of the above mentioned licence on the ground that the original Exchange Control Purpose copy of the licence has been lost or misplaced. It has further been stated that the Exchange Control Purpose copy of the licence was not registered with Customs House and has been utilised for a sum of Rs. 3,01,55,726 leaving an unutilised balance of Rs. NIL.

3. In support of their contention is intended has filed an Affidavit on stamped paper. I am accordingly satisfied that the Exchange Control Purpose copy of import licence No. P/CG/2133881 dated 27-1-95 has been lost or misplaced by the firm. In exercise of the powers conferred under Sub-clause 9(cc) of the Import (Control) Order

19545 dated 7-12-1955 as amended the said original Exchange Control Purpose copy No. P/CG/2133881 dated 27-1-95 issued to M/s. Sumi Motherson Integrated Technologies Ltd. is hereby cancelled.

4. The duplicate Exchange Control Purpose copy of the said licence is being issued to the party separately.

[F. No. 18/929/AM '95/EPCG-II/266]

K. CHANDRAMATHI, Dy. Director
General of Foreign Trade

मानव संसाधन विकास मंत्रालय

(शिक्षा विभाग)

नई दिल्ली, 23 सितम्बर, 1998

का. आ. 1991 :—केन्द्रीय सरकार, राजभाषा (संघ के सरकारी प्रयोजनों के लिए प्रयोग) नियम 1976 के नियम 10 के उप-नियम (4) के अनुसरण में मानव संसाधन विकास मंत्रालय (शिक्षा विभाग) के अन्तर्गत निम्नलिखित केन्द्रीय विद्यालयों को जिनमें 80% से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है :—

1. केन्द्रीय विद्यालय
एयर फोर्स स्टेशन,
घोगा (बवाना)
2. केन्द्रीय विद्यालय
क्षेत्रीय कार्यालय,
7, टैगोर नगर, यूनिवर्सिटी रोड
थाटीपुर, ग्वालियर।
3. केन्द्रीय विद्यालय,
वायुसेना स्थल,
तुगलकाबाद, नई दिल्ली।
4. केन्द्रीय विद्यालय,
स्टेशन रोड,
बारां, राजस्थान।
5. केन्द्रीय विद्यालय,
सी. सी. आई. टाउनशिप,
आदिलाबाद।
6. केन्द्रीय विद्यालय,
धार्मी एरिया डी. ए. डी. कॉम्प्लेक्स,
बानवड़ी रेंज,
पुणे-411040

[सं. 11011—5/97-रा. भा. ए.]
निशेन्दु ओजा, निदेशक (रा. भा.)

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(Department of Education)

New Delhi, the 23rd September, 1998

S.O. 1991.—In pursuance of sub-rule (4) of Rule 10 of the Official Languages (Use for purposes of the Union) Rules, 1976 the Central Govt. hereby notifies of the following Kendriya Vidyalayas under the Ministry of Human Resource Development (Department of Education) more than 80 per cent staff of which has working knowledge of Hindi :—

1. Kendriya Vidyalaya,
Air Force Station,
Ghoga (Bawana).
2. Kendriya Vidyalaya,
Regional Office,
7-Taigore Nagar,
University Road,
Thatipur,
Gawalior.
3. Kendriya Vidyalaya,
Air Force Station,
Tugalkabad,
New Delhi.
4. Kendriya Vidyalaya,
Station Road,
Baran,
Rajasthan.
5. Kendriya Vidyalaya,
C.C.I. Township,
Adilabad.
6. Kendriya Vidyalaya,
Army Area D.A.D. Complex,
Wanwari Range,
Poone-411040.

[No. 11011-5/97-O.L.U]

NISHENDU OJHA, Director (O.L.)

वस्त्र मंत्रालय

नई दिल्ली, 24 सितम्बर, 1998

का. आ. 1992.—केन्द्रीय सरकार राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम 4 के अनुसरण में वस्त्र मंत्रालय के अंतर्गत आने वाले निम्नलिखित कार्यालयों को, जिनमें 80% कर्मचारी वृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है :—

1. भारतीय कपास निगम लि., लक्ष्मी बिल्डिंग, दूसरी मंजिल, अरुनवलपेट, चौथी लाइन, पो. बा. 227, गुंटूर-522001

2. नेता स्पिनिंग मिल, 608, लोयर टैंकबंड रोड, एल्पी गुडा, सिकंदराबाद-500080
3. बुनियादी बीज गुणन व प्रशिक्षण केन्द्र, केन्द्रीय तसर अनुसंधान व प्रशिक्षण संस्थान, के. रे. बो., बोडरदादर, जिला-रायगढ़-496004 (म.प्र.)
4. क्षेत्रीय रेशम उत्पादन केन्द्र, धुले (महाराष्ट्र)
5. तकनीकी सेवा केन्द्र, रायचोटी
6. मुंबई टेक्सटाइल मिल्स, सेनापति बापत मार्ग, मुम्बई-400013
7. पोदार मिल्स (प्रोसेस हाउस) गणपतराव कदम मार्ग, लोअर पटेल, मुंबई-400013
8. गोल्ड मोहर मिल्स, दादासाहब फालके रोड, दादर, मुम्बई-400014
9. बार्शी टेक्सटाइल मिल्स, बार्शी, 2553, भोयरे रोड, बार्शी, जिला-सोलापुर
10. धुले टेक्सटाइल मिल्स, पो.बा.-2, धुले-424001 (महाराष्ट्र)
11. फिन्ले मिल्स, 11/11, डा० एस० एस० राव रोड पारेल-मुम्बई-400012
12. एल्फिन्स्टन स्पिनिंग एंड वीविंग मिल्स, सेनापति बापत मार्ग, पटेल, मुंबई-400013
13. जूपीटर टेक्सटाइल मिल्स, बी.एम. मार्ग, पटेल, मुंबई
14. औरंगाबाद टेक्सटाइल मिल्स, ट.पे.के 97 कोतवालापुर, औरंगाबाद-431001
15. अग्रोलो टेक्सटाइल मिल, मुंबई
16. न्यू सिटी ग्राफ बाम्बे मैन्युफैक्चरिंग मिल्स, 63, तुकाराम भिसाजी कदम मार्ग, मुंबई-400033
17. चालीम गांव टेक्सटाइल मिल्स, इकाई, एन.टी.सी. (मा.म.) भडगांव रोड, चालीम गांव-424101
18. नादेड टेक्सटाइल मिल्स, पो.बा.-10, मिल रोड नादेड-431601
19. भारत टेक्सटाइल मिल्स, गणपतराव कदम मार्ग, वर्जी, मुम्बई-400013
20. दिग्विजय टेक्सटाइल मिल्स, लालबाग, मुंबई-400022
21. न्यू हिंद टेक्सटाइल मिल्स, रामभाऊ भोगले मार्ग, मुम्बई-400033
22. श्री मधुसूदन मिल्स, पांडुरंग बुधकर मार्ग, मुम्बई-400013

MINISTRY OF TEXTILES

New Delhi, the 24th September, 1998

S.O. 1992.—In pursuance of sub-rule (4) of Rule 10 of the Official Language (use for official purposes of the Union), Rules, 1976 the Central Government hereby notifies the following offices under the Ministry of Textiles where of more than 80 per cent staff have acquired working knowledge of Hindi :—

1. The Cotton Corporation of India Ltd., Laxmi Building, 2nd Floor Arundalpet, 4th Line, PO Box No. 227. Gunttoor-522001.
2. Neta Spinning Mills, 608, Lower Tankbund Road, Alpi Guda, Sikandrabad-500080.
3. Buniyadi Beej Gunan Va Prashikshan Kendra, Kendriya Tassar Anusandhan Va Prashikshan Sansthan, Central Silk Board, Boraradadar, Dist. Raigarh-496004. (M.P.)
4. Kshetriya Resham Utpadan Anusandhan Kendra, Dhule (Maharashtra).
5. Takniki Sewa Kendra, Raichotti.
6. Mumbai Textiles Mills, Senapathi Bapat Marg, Bombay-400013.
7. Podar Mills, (Process House), Ganpatrao Kadam Marg, Lower Road, Mumbai-400013.
8. Gold Mohar Mills, Dada Sahib Phalke Road, Dadar Mumbai-400014.
9. Barshi Textile Mills, 2553, Bhoyre Road, P.B. No. 30, Barshi-413401, Distt. Sholapur.
10. Dhule Textile Mills, Dhule, Post Box No. 2 Dhule-424001, Near Railway Station (Maharashtra)
11. Finlay Mills, 10/11, Dr. S. S. Rao Road, Parel, Mumbai-400012.

[सं. ई-11016/1/98-हिंदी]

धरन दास, उप सचिव

12. Elphinstone Spg. & WVG. Mill,
Senapathi Bapar Marg,
Parel, Mumbai-400013.
13. Jupiter Textile Mills,
Balaseth Madhurkar Marg,
Elphinstone,
Mumbai-400013.
14. Aurangabad Textile Mill,
P.B. No. 97,
Kotwalpura,
Aurangabad-431001.
15. Appollo Textile Mills,
382, N. M. Joshi Marg,
Mumbai-400011.
16. New City of Bombay Mfg. Mills (U.C.),
63, Tukaram Bhisaji Kadam Marg,
Mumbai-400033.
17. Chalisgaon Textile Mills,
Bhadgaon Road,
Chalisgaon-424101,
Dist. Jalgaon
18. Nanded Textile Mills,
Post Box No. 10, Mill Road,
Nanded-431601.
19. Bharat Textile Mills,
Ganpatrao Kadam Marg,
Mumbai-400013.
20. New Hind Textile Mills,
Lalbaug,
Mumbai-400033.
21. New Hind Textile Mills,
Rambhau Bhoghley Marg,
Mumbai-400033.
22. Shri Madhusudhan Mills,
Shankarrao Naram Path,
Pandurang Budhkar Marg,
Mumbai-400013.

[No. E-11016/1/98-Hindi]

CHARAN DASS, Dy. Secy.

विज्ञान और प्रौद्योगिकी मंत्रालय
(विज्ञान और प्रौद्योगिकी विभाग)
नई दिल्ली, 19 सितम्बर, 1998

का. आ. 1993.—श्री चित्रा तिरुनाल आयुर्विज्ञान तथा प्रौद्योगिकी संस्थान, त्रिवेन्द्रम अधिनियम, 1980 (1980 की सं. 52) की धारा 6 की उप-धारा (2) के साथ पठित धारा 5 के खण्ड (जे) के उपबंधों के अनुसार निम्नलिखित दो संसद सदस्यों का श्री चित्रा तिरुनाल आयुर्विज्ञान तथा प्रौद्योगिकी संस्थान, तिरुवनंतपुरम के

के संस्थान निकाय में सदस्य के रूप में कार्य करने के लिए चयन किया गया है :—

क्र.सं.	संसद सदस्य का नाम	चुनाव की तारीख
1.	श्री जार्ज एडन, लिंक गार्डन हाउसिंग कालोनी, कासूर कोचीन (केरल)	21-7-98
2.	श्री वी धनजय कुमार पार्वीथर्स, दण्डाकेरी रोड, येयादि, मंगलौर (कर्नाटक)	21-7-98
	82, साऊथ एवेन्यू, नई दिल्ली	

2. प्रत्येक चयनित सदस्य के पद का कार्यकाल उनके चुनाव की तारीख से 5 वर्ष होगा और यह कार्यकाल सदन की उनकी सदस्यता समाप्त होने पर तुरंत समाप्त हो जाएगा।

3. उपर्युक्त सदस्यों की सदस्यता श्री चित्रा तिरुनाल आयुर्विज्ञान तथा प्रौद्योगिकी संस्थान, त्रिवेन्द्रम अधिनियम, 1980 के अन्य उपबंधों के अधीन होगी।

[सं. ए 1/विधि/एस सी टी/022/95 (भाग)]
एस.एम. के सरदाना, संयुक्त सचिव

MINISTRY OF SCIENCE & TECHNOLOGY

(Department of Science & Technology)

New Delhi, the 19th September, 1998

S.O.1993.—In terms of the provisions of Clause (J) of Section 5 read with Sub-section (2) of Section 6 of Sree Chitra Tirunal Institute for Medical Science & Technology, Trivandrum Act, 1980 (No. 52 of 1980), the following two Members of Parliament have been elected, to serve as Members on the Institute Body of Sree Chitra Tirunal Institute for Medical Sciences & Technology, Thiruvananthapuram;—

S. No.	Name of Member of Parliament	Date of election
(i)	Shri George Eden Link Garden Housing Colony Kaloore, Cochin, Kerala.	21-7-1998
(ii)	Shri V. Dhananjaya Kumar Parvithrs, Dandakeri Road, Yeyyadi, Mangalore, Karnataka. 82, South Avenue, New Delhi.	21-7-1998

2. The term of office of each elected Member shall be five years from the date of his election and the same shall come an end as soon as he ceases to be a Member of the House.

3. The membership of the above Members shall be subject to other provisions of Sree Chitra Tirunal Institute for Medical Sciences & Technology, Trivandrum Act, 1980.

[No. AI/Misc./SCT/022/95/Part]

M.M.K. SARDANA, Jt. Secy.

श्रम मंत्रालय

नई दिल्ली, 15 सितम्बर, 1998

का. आ. 1994.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इटावा क्षेत्रीय ग्रामीण बैंक, इटावा के प्रबन्ध तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-9-98 को प्राप्त हुआ था।

[संख्या एल-12012/182/आई. आर. (बी. I)]

पी. जे. माईकल, डेस्क अधिकारी

MINISTRY OF LABOUR

New Delhi, the 15th September, 1998

S.O. 1994.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Etawa Ksh. Gramin Bank and their workman, which was received by the Central Government on 11-9-98.

[No. L-12012/182/IR(B.I)]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE SHRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, DEOKI PALACE ROAD,

PANDU NAGAR, KANPUR.

Industrial Dispute No. 29 of 1998

In the matter of dispute between :

R. K. SHARMA,
Etawah Kshetriya Gramin Bank,
Staff Association,
Kuncha Sheelchandra,
Etawah.

AND

Chairman
Kshetriya Gramin Bank,
123A, Civil Lines,
Etawah.

AWARD

Central Government, Ministry of Labour, New Delhi vide its Notification No. L-12012/182-IR (B-II) dated 4-3-98 has referred the following dispute for adjudication to this Tribunal :

Whether the action of the management of Etawah Kshetriya Gramin Bank, Etawah in terminating the services of Shri Ramesh Ji of their Garha Kusada branch w.e.f. 1-12-96 is justified? If not, to what relief the workman is entitled?

2. It is unnecessary to give the details of the case as after sufficient opportunity the concerned workman has not filed the claim statement. Hence the reference is answered against the workman for want of prosecution and proof and he is not entitled for any relief.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 15 सितम्बर, 1998

का. आ. 1995.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में; केन्द्रीय सरकार मेन्ट्रल रेलवे, झांसी के प्रबन्ध तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-9-98 को प्राप्त हुआ था।

[संख्या एल-41012/54/90-आई. आर. (डी. यू. /बी. 1)]

पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 15th September, 1998

S.O. 1995.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Rly., Jhansi and their workman, which was received by the Central Government on 11-9-98.

[No. L-41012/54/90-IR(D.U./B.I.)]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 16 of 1991

In the matter of dispute between :

President Rashtriya Chaturth Shreni Rail Mazdoor Congress Namnair, Agra,

AND

Sr. DME, S&W, Central Railway, Jhansi.

APPEARANCES :

S. Singh for the Union.
None for the Management.

AWARD

1. Central Government, Ministry of Labour, vide notification No. L-41012/54/90/I.R. DU dated 13-3-91, has referred the following dispute for adjudication to this Tribunal—

Whether the Sr. D.M.E. (C&W), Central Railway, Jhansi was justified in not giving correct seniority to Sri Atar Singh w.e.f. 11-8-81 and putting the junior Sri Deen Kr. Trivedi senior to him in the seniority list? If not, to what relief the workman concerned is entitled to?

2. The case of the concerned workman is that he is working as machinist with the opposite party from 11-8-81. Deep Kumar Trivedi is also working at this post. The concerned workman is senior to Deep Kumar Trivedi still in the seniority list dated 11-8-81. Deep Kumar Trivedi has been shown

senior to him which is not justified as the concerned workman is actually senior to Deep Kumar Trivedi.

3. The opposite party management has contested the claim denying the pleas of the concerned workman. In this case it will not be necessary to give further details to the case as it will be sufficient that copy of seniority list dated 11-8-81 have been filed on record in which Atar Singh the concerned workman has been shown at serial No. 6 whereas Deep Kumar Trivedi has been shown at serial No. 11. In other words the concerned workman has been shown senior to Deep Kumar Trivedi, hence it cannot be said the management opposite party has shown Deep Kumar Trivedi senior to the concerned workman in the seniority list. Hence reference itself is not based on facts. In the end my award is that as the concerned workman has been shown senior to Deep Kumar Trivedi in the seniority list dated 11-8-81. This list cannot be said to be bad. Consequently the concerned workman is not entitled for any relief.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 16 सितम्बर, 1998

का. आ. 1996.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 16 के अनुसरण में केन्द्रीय सरकार बनारस स्टेट बैंक लिमिटेड के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-9-98 को प्राप्त हुआ था।

[संख्या एल-12012/40/96-आई.आर (बी. 1)]
पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 16th September, 1998

S.O. 1996.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Banaras State Bank Ltd., and their workman, which was received by the Central Government on 15-9-98

[No. L-12012/40/96-IR (B.I.)]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE SHRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, DEOKI PALACE ROAD, PANDU NAGAR, KANPUR

Industrial Dispute No. 59 of 1997

In the matter of dispute

BETWEEN

Dashrat Yadav,
C/O. Sri P. A. Tiwari,
894/165,
Sobativabag,
Allahabad.

AND

Chairman,
Benaras State Bank Ltd.,
Head Office S-20/52 A. K. Varuna Bridge,
Varanasi.

APPEARANCE :

Shri B. P. Saxena—for the workman.

Shri Amraka Singh—for the Management

AWARD

1. Central Government, Ministry of Labour, New Delhi vide its Notification No. L-12012/40/96-IR. (B-I) dated 25-3-97 has referred the following dispute for adjudication to this Tribunal :—

Whether the action of the management of the Benaras State Bank Ltd., Varanasi in dismissing Sh. Dashrath Yadav Sahayak Karmachari of their Nadaon Branch vide their letter LGMDS/D-54/340/93-94 dated 9-6-93 is justified? If not what relief the workman is entitled?

2. The concerned workman was appointed as Water boy-cum-peon by the opposite party. The Benaras State Bank Limited on 13-12-82. Later on he was confirmed by letter dated 20-10-83. A chargesheet dated 24-2-90 was issued to the concerned workman by the opposite party Bank stating the act of misconduct. It was alleged that in the Educational Certificate furnished by the concerned workman at the time of appointment he has given his date of birth as 7-5-57, whereas on enquiry it was found that it was 27-2-52, hence he was chargesheeted for furnishing forged certificate containing wrong date of birth. One M. M. Khatri an officer of the bank was appointed enquiry officer. After completing enquiry he submitted his report dated nil. Agreeing with this report the concerned workman was removed from service by order dated 9-6-93. Appeal was also dismissed. Feeling aggrieved the concerned workman has raised the instant industrial dispute, inter alia alleging that enquiry was not fairly and properly held.

3. On the pleadings of the parties a preliminary regarding fairness and propriety of domestic enquiry was framed. After hearing the parties vide finding dated 6-3-98 it was held that enquiry was not fairly and properly held. It was found that Chandra Shekhar Pandey the Principal of School was examined as a witness of the Bank. He is the Principal of the College. He was examined to prove the actual date of birth of concerned workman on the basis of entry school register. It was further found that no opportunity was given to cross examine this witness. Hence on the basis of this it was held that enquiry was not fairly and properly held.

4. Thereafter the bank was given opportunity to prove misconduct before this Tribunal. Once again the opposite party bank obtained summons to produce the Principal Chandra Shekhar Pandey, but he was not examined. Instead one Nand Kumar Bhargava Manager of the bank MW(1) was examined who was not posted during the relevant period. Further a fresh document was filed which is in the nature of letter, issued by Madhymik Siksha Parishad, Allahabad. The evidence of officer is not based on personal knowledge. Only some officer of official or the college could have proved the date of birth with the help of relevant register of college. In its absence the case was not proved. Hence the workman had also did not adduce any evidence. As regard certificate from Madhymik Siksha Parishad, Allahabad the Au Rep. of workman has referred to Section 11-A to proviso of para 11-A of I.D. Act which runs as under :

Provided that in any proceeding under this section the Labour Court, Tribunal or National Tribunal as the case may be shall rely only on the materials on record and shall not take any fresh evidence in relation to the matter.

It has been submitted that management should not be allowed the stand on better footing than what was in existence at the time of completion of domestic enquiry. In this way this will amount to improving the case. I am inclined to agree with this contention. Thus it will be seen that virtually it is a case of no evidence against the concerned workman. Hence I am of the opinion that misconduct was not proved.

5. Apart from this matter was racked up after lapse of about 8 years. The applicant was taken in service on 13-12-82 and was confirmed. Proper course was to have asked for the original within a year or two of the appointment. Such matter should not be allowed to be raised after lapse of long time as it will tend to uncertainty.

6. Accordingly my award is that dismissal of concerned workman is bad in law and he is entitle for reinstatement with back wages.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 16 सितम्बर, 1998

का. आ. 1997.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नोर्दन रेलवे, झांसी के प्रबन्ध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-9-98 को प्राप्त हुआ था।

[संख्या एल-12012/74/95-आई. आर (बी. I.)]

पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 16th September, 1998

S.O. 1997.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Northern Railway, Jhansi and their workman, which was received by the Central Government on 15-9-98.

[No. L-12012/74/95-IR (B.I.)]

P. J. MICHAEL, Desk Officer

अनुबंध

श्री बी. के. श्रीवास्तव, पीठासीन अधिकारी, केन्द्रीय सरकार औद्योगिक न्यायसिद्धि एवं श्रम न्यायालय 117 एच-1 378-ए, देवकी पैलेस रोड, पाण्डु नगर, कामपुर आई. संख्या 36/1997

प्रेसीडेंट, आर सी.बी.आर.एम. कांग्रेस

2/236, नगमनर, आगरा।

बनाम

डी. आर. एम. (पी.)

उत्तर रेलवे, झांसी।

श्रम न्यायालय भारत सरकार के निम्नलिखित संदर्भ अभिनिर्णय हेतु अधिकरण को भेजा है ए एल 12012/74/95-आई आर (बी) दिनांक 21-1-97

अनुसूची

"Whether the action of the management of D.R.M.(P) Central Railway Jhansi not to regularise the services of Shri Lakshan Lal, M.R.C.L. Baad Rly Station, Mathura along with his Junctions as Khalasi is legal and Justified if not to what relief he is entitled to?"

सम्बन्धित श्रमिक ने अपने लिखित कथन में कहा है कि वो 12-6-78 से बतौर ए. पी. एम. बाइ रेलवे स्टेशन मथुरा पर तैनात है, वर्ष 1996 में उसको रेगुलर नियमित करने के लिए स्क्रिनिंग किया। जिसमें वह पास हो गया इसके बावजूद भी उसको नियमित नहीं किया गया, जबकि इसमें कनिष्ठ एम. आर. सी. एल. रामेश्वर पुत्र श्री दीनबाल को बतौर ए. पी. एम. के रेगुलराइज कर

दिया गया जो न्यायोचित नहीं है। इस आधार पर सम्बन्धित श्रमिक भी नियमित होने का अधिकारी है।

विपक्ष मध्य रेलवे ने अपने जवाब में कहा है कि ए. पी. एम. हेतु आठवां पास होना आवश्यक है जो कि सम्बन्धित श्रमिक तीसरा ही दर्जा पास था इसलिए वो स्क्रिनिंग में उपयुक्त नहीं पाया गया। अतः वह नियमित होने का अधिकारी बने, अपने लिखित प्रति उत्तर में सम्बन्धित श्रमिक ने लिखित कथन में सब बातों को नकारा है।

इस बात पर कोई विवाद नहीं है कि ए. पी. एम. की जगह पर नियमित करने के लिए आठवां पास होना चाहिए, ये भी बात निर्विवाद है कि सम्बन्धित श्रमिक आठवां पास नहीं है। उनके अधिकृत प्रतिनिधि का कहना है कि जो सम्बन्धित श्रमिक से कनिष्ठ नियमित किया गया है, वह भी आठवां पास नहीं था। इस प्रकार सेवायोजक ने इस मामले में भेदभाव बरता है। इस पर सेवायोजक से रामेश्वर सिंह कि पत्रावली मंगाई गई जो इससे ये सिद्ध होता है रामेश्वर सिंह आठवां पास था, जब उसको नियमित किया गया। इस प्रकार से सम्बन्धित श्रमिक के अधिकृत प्रतिनिधि का तर्क बलहीन है। चूंकि रामेश्वर आठवां पास था इसलिए यह कहना गलत है कि सम्बन्धित श्रमिक के साथ भेदभाव गलत है।

अन्त में मेरा यह अभिनिर्णय है कि सम्बन्धित श्रमिक ए. पी. एम. की जगह पर नियमित होने का अधिकारी नहीं है क्योंकि वह आठवां पास नहीं था।

अतः वह कोई हितलाभ का अधिकारी नहीं है।

बी. के. श्रीवास्तव, पीठासीन अधिकारी

नई दिल्ली, 16 सितम्बर, 1998

का. आ. 1998.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार वेस्टर्न रेलवे, मुम्बई के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. II, मुम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-9-98 को प्राप्त हुआ था।

[संख्या एल-41011/21/95-आई.आर. (बी I.)]

पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 16th September, 1998

S.O. 1998.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, No. II, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Western Rly., Mumbai and their workman, which was received by the Central Government on 15-9-1998.

[No. L-41011/21/95-IR (B.I.)]
P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, MUMBAI

PRESENT :

Shri S. B. Panse, Presiding Officer
Reference No. CGIT-2/17 of 1997

Employers in relation to the Management of Divisional
Manager Western Rly. Mumbai.

AND

Their Workmen

APPEARANCES :

For the Employer.—Mr. Suresh Kumar, Advocate.

For the Workmen.—Mr. M. B. Anchan, Advocate.

Mumbai, dated 18th August, 1998

AWARD

The Government of India, Ministry of Labour by its Order No. L-41011/21/95-IR(B.I.) dated 11-3-97 had referred to the following Industrial Dispute for adjudication :—

“Whether the action of the Railway Manager, Western Railway not granting the benefit of the pay fixation and the arrears in respect of the seventeen workmen viz., Shri Vasant Shankar (SC) (ELF) (ERB) Gr. I and others with effect from the eligible date is justified or not? If not, what relief should be granted?”

2. Paschim Railway Karmachari Parishad filed a statement of claim at Exhibit-4. The Parishad contended that the Railway Board by its order upgrades the artisans staff and helper Khalasis on the Track Bonding section to the section of the Electrical Traction (Overhead) department in the ratio of 50 : 10 : 40, skilled, semi-skilled and unskilled. Accordingly out of the 17 employers concerned in the above reference five employees in the ELF senior Grade-I and five employees in ELF Senior Grade-II and seven employees in helper Khalasi were upgraded w.e.f. 1-12-78. It is averred that eventhough the upgradation was there the concerned employees were not given their arrears of pay and allowances. They lost their seniority and promotion. The juniors who were promoted and ungraded were further promoted to the higher posts. It is therefore prayed that the action of the management is not justified and these workmen are entitled to the reliefs as claimed in the reference.

3. The Western Railway filed a written statement at Exhibit-7. It is pleaded that the court has no jurisdiction to decide the reference. It is averred that the reference suffers from laches. It is pleaded that the claim in the employees in the present reference is about seniority, promotion and fixation of payment. The necessary employees who are likely to be affected by the order are not made party to the said reference. Therefore the reference suffers for want of necessary parties. It is pleaded that there is no case for the employees in the said reference, and the reference deserves to be rejected.

4. I have framed issues at Exhibit-8. Thereafter the matter was adjourned for leading evidence on behalf of the union. Eventhough sufficient opportunity was given to the union the evidence was not lead. It can be further seen that no documents were adduced to the record to justify the claim which is made by the union. For all these reasons I find that the union or Parishad is not interested in prosecution the matter further. In the result I pass the following order :

ORDER

The reference is disposed off for want of prosecution.

S. B. PANSE, Presiding Officer

नई दिल्ली, 16 सितम्बर, 1998

का. आ. 1999.—औद्योगिक विवाद अधिनियम,
1947 (1947 का 14) की धारा 17 के अनुसरण

में, केन्द्रीय सरकार मध्य रेलवे, झांसी के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-9-98 को प्राप्त हुआ था।

[संख्या एल-41011/3/97-आई आर (बी. I.)]

पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 16th September, 1998

S.O. 1999.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Rly., Jhansi and their workman, which was received by the Central Government on 15-9-98.

[No. L-41011/3/97-IR(B.I.)]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE SHRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, DEOKI PALACE ROAD, PANDU NAGAR, KANPUR

Industrial Dispute No. 44 of 1998

In the matter of dispute between :

Km. Meenu Soni,
Karywahak Adhiksh,
Railway Parcel Porters Association,
Hata No. 1, Rail Bazar,
Cantt., Kanpur.

AND

Divisional Railway Manager,
Central Railway, Jhansi.

APPEARANCES :

Km. Meenu Soni for the Workman.
None for the Management.

AWARD

1. Central Government, Ministry of Labour, New Delhi vide its Notification No. L-41011/3/97-I.R.(B-I) dated 11-3-98 has referred the following dispute for adjudication to this Tribunal :

KYA MANDAL RAIL PRABHANDAK, MADHYA RAILWAY, JHANSI KE DWARA ANULANGAN ME VERNIT YARD CLEANER'S KHALASI KO DIESEL, ASSISTANT KA PAD NAM WA VETANMAN NA DENA NAYOCHIT WA VAIDHANIK HAI? YDI NAHI TO YEH KARMCHARI KIS ANUTOSH KE HAKDAR HAI?

2. The case of the concerned workmen Suresh Chandra S/o Ramveer Singh, Deen Dayal S/o Govinda, Motilal S/o Mewa Lal, Cheda Lal S/o Baijnath, Shivbholu S/o Ganga Ram and Nathu Lal S/o Bhim Lal is that after the opposite party Northern Railway replaced Steam Engine with Diesel one, the concerned workmen were also entitled to be designated as Diesel Assistant. The opposite party has adopted the policy of pick and choose by designated junior to the concerned workmen as Diesel Assistant. Hence they are entitled to be designated as Diesel Assistant.

3. The opposite party has failed to file any reply in spite of sufficient service.

4. In support of the case the concerned workmen have filed 43 papers. Apart from this they have adduced evidence of Suresh Chand, WW(1). From this evidence the case is fully proved.

5. Accordingly my award is that the concerned workmen are entitled for designation of Diesel Assistant from the date juniors to them were designated as such.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 16 सितम्बर, 1998

का. आ. 2000 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार छत्रसाल ग्रामीण बैंक, जालौन के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-9-98 को प्राप्त हुआ था।

[संख्या एन-12012/202/93-आई आर (बी. I)]

पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 16th September, 1998

S.O. 2000.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Chhatrasal Gramin Bank and their workman, which was received by the Central Government on 15-9-98.

[No. L-12012/202/93-IR(B-I)]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 29 of 1995

In the matter of dispute between :

Shri Ramesh Chandra Swarankar,
C/o Km. Meenu Soni,
119/78, Kaushalpur,
Kanpur.

AND

The Chairman,
Chhatrasal Gramin Bank,
Orai,
District-Jalaun.

1. Central Government, Ministry of Labour, New Delhi vide its Notification No. L-12012/202/93-I.R.B.I dated 21st February, 1995, has referred the following dispute for adjudication to this Tribunal—

Whether the action of the management of Chairman, Chhatrasal Gramin Bank, Orai, District Jalaun in terminating services of Shri Ramesh Chandra Swarankar S/o late Ram Shankar w.e.f. 25-3-1984 and providing no opportunity for re-employment is legal and justified? If not then what relief the workman is entitled to?

2. The case of the concerned workman is that he was engaged as Peon on 16-8-83 by the opposite party Chhatrasal Gramin Bank. He worked upto 25-7-84 when he was removed from service so that he may not complete 240 days in a year. After his removal Anil Kumar Tiwari, Jalim Kushwaha and Chutkan Swarankar were engaged but no opportunity was given to him, hence there has been breach of provisions of section 25H of I.D. Act.

3. The opposite party has filed reply in which it has been alleged that no fresh appointments have been made, that the concerned workman was a daily-rated casual worker, he did not work on any permanent post, as he was getting Rs. 8 per day which was not sufficient for him as such he left the job of his own.

4. The concerned workman has filed rejoinder in which nothing new has been alleged.

5. At the out set I may mention that the claim is about 11 years old as such it is stale. Hence on this ground alone the concerned workman will not be entitled for any relief.

6. On merits too admittedly he had not completed 240 days in a year, hence he is not entitled for benefit of Section 25F of I.D. Act. Branch Manager, K. K. Mehrotra, M.W.I has stated that the concerned workman was part-time worker, he was getting Rs. 8 per day as it was not sufficient amount he left the job of his own. The concerned workman Ramesh Chandra, W.W.I has not rebutted this evidence. In this way the evidence of the management is un rebutted. Accordingly it is held that the concerned workman had himself left the job as such question of infringement of provision of Section 25H of I.D. Act does not arise.

7. As a result of above discussion, my award is that as the concerned workman had left the job of his own question of termination being bad does not arise consequently he will not be entitled for any relief. Reference is answered accordingly.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 16 सितम्बर, 1998

का. आ. 2001 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार प्रतापगढ़ क्षेत्रीय ग्रामीण बैंक, प्रतापगढ़ के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-9-98 को प्राप्त हुआ था।

[संख्या एन-12012/248/94-आई आर (बी. I)]

पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 16th September, 1998

S.O. 2001.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Pratapgarh Kshetriya Gramin Bank, and their workman, which was received by the Central Government on 15-9-1998.

[No. L-12012/248/94-IR (B-I)]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 22 of 1996

In the matter of dispute :

BETWEEN

Sri Sunil Kumar
through Sri Gyan Singh (Vice President)
Pratapgarh Kshetriya Gramin Bank Employees
Association,
Gramin Bank, Branch and Post Rajgarh,
District Pratapgarh.

AND

Chairman,
Pratapgarh Kshetriya Gramin Bank,
Civil Lines,
Pratapgarh.

AWARD

1. Central Government, Ministry of Labour, New Delhi vide its Notification No. L-12012/248/94-IR (B-1) dated 20-2-96, has referred the following dispute for adjudication to this Tribunal—

Whether the action of the management of Pratapgarh Kshetriya Gramin Bank, Pratapgarh in terminating the services of Shri. Sunil Kumar Shukla, Resident of Village Shukulpur, Post Sadar, Distt. Pratapgarh from their Bank w.e.f. 8-9-1987 is justified? If not, what relief the workman is entitled to?

2. The case of the concerned workman is that he was engaged as typist-cum-clerk on 1-9-96 with the opposite party Kshetriya Gramin Bank Pratapgarh. He continuously worked upto 7-9-87 and in this way he had completed 240 days. His termination is bad being in breach of provision of Section 25-F of I. D. Act. Further after his retrenchment Ashok Kumar Singh and Madan Kumar have been engaged without giving him opportunity of reemployment hence provision of Section 25-H of I. D. Act has been violated.

3. In reply the opposite party management has alleged that the concerned workman was daily rated part time worker, he did not complete 240 days in a year as he had worked intermittently. He had left the job of his own.

4. In the rejoinder nothing new has been alleged.

5. Management has filed Ext. M-1 to M-22 where workman has filed Ext. W-1 to W-4. The concerned workman Sunil Kumar has stated that he had continuously worked whereas the management witness Triveni Singh MW-1 manager has denied it and has stated that he had worked for 155 days. There is Ext. M-22 a submission made by the opposite party bank before ALCC in which he has shown the number of working days of concerned workman which go to show that the concerned had worked only for 155 days in broken periods. As the evidence of management is based on record I hold that he concerned workman had completed 240 days in a year. Accordingly, benefit of Section 25-F of I. D. Act is not available to him.

6. The concerned workman has stated that after his termination Madan Kumar and Ashok Kumar Singh have been engaged. Triveni Singh MW-1 has not denied this fact. Thus it is established from un rebutted evidence that the work which was being done by the concerned workman is being taken by the above mentioned two persons. In this way here had been breach of provision of Section 25-H of I. D. Act. Still the concerned workman will not be entitled for reinstatement as he was a daily rated workman and not working on any regular post. At the most he will be entitled for compensation.

7. In view of above discussion my award is that termination of the concerned workman is bad being in breach of provision of Section 25-H of I. D. Act, still he will not be entitled for reinstatement. Instead he will be entitled for compensation of Rs. 10,000 in lieu of reinstatement.

Dated : 7-9-1998

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 18 सितम्बर, 1998

का. आ. 2002:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ़ इंडिया, आगरा के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-9-98 को प्राप्त हुआ था।

[संख्या एल-12012/19/97-आई एर (बी) / बी. I]

पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 18th September, 1998

S.O. 2002.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of State Bank of India, Agra and their workman, which was received by the Central Government on 16-9-1998.

[No. L-12012/19/97-IR (B)/(B-I)]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 225 of 1997

In the matter of dispute :

BETWEEN

The Dy. General Secretary,
State Bank of India Staff Association
2/363 Namner Agra.

AND

The Assistant General Manager
State Bank of India Region II
Zonal Office Sanjai Place Agra.

AWARD

1. Central Government, Ministry of Labour, vide Notification No. L-12012/19/97-I.R. (B) dated 6-11-97, has referred the following dispute for adjudication to this Tribunal—

Whether the action of the management of Assistant General Manager Region II State Bank of India Agra to impose punishment of stoppage of two annual increments w.e.f. 1-7-95 and 1-7-96 on Shri S. D. Sharma Agriculture Assistant State Bank of India, Neswan Agra is legal and justified? If not he is entitled to what relief?

2. The concerned workman S. D. Sharma was posted as Agriculture Assistant at Charra Branch of the opposite party State Bank of India. He was deputed at Saving Bank counter of the branch on 8-7-89. On that day he had posted a withdrawal form for Rs. 14,700 belonging to Khachar Mal in his S/B A/c. No. 10/2452. In that connection he is alleged to have committed certain irregularities the details of which have been given in the chargesheet dated, copy of which is attached herewith. J. P. Mishra an Officer of the bank was appointed as Enquiry Officer. After completing enquiry he submitted his report on 22-6-94 holding that charge were proved. Consequently, the concerned workman was awarded punishment by way of stoppage of two annual increments w.e.f. 1-7-95 and 1-7-96. Feeling aggrieved the concerned workman has raised the instant industrial dispute.

3. In the claim statement inter alia the fairness and propriety of domestic enquiry was challenged which fact was denied by the management. Hence, the following preliminary issue was framed—

Whether the domestic enquiry was conducted fairly and properly?

I have heard both the sides and have perused the record. At the outset I am of the opinion that the charge as levelled against the concerned workman does not constitute gross misconduct as envisaged by para 19.5(j) of 1st Bipartite Settlement. According to para 19.5(j) the misconduct which involves is gross negligence or negligence involving or likely to involve bank in serious loss. In my opinion simply because posting was done by the concerned workman without pass book of the customer and further simply because the concerned workman failed to take note that it was a dormant account it cannot be said that the concerned workman was extrinsic guilty to gross negligence. It is not the case of the management that bank has been put to loss or with-

drawal had been wrongly made. The concerned workman was Agriculture Assistant. I find substance in the contention of the authorised representative of the concerned workman that because of any acceptance these lapses were committed. I am further of the view that at the most this matter would be covered by minor misconduct as defined in para 19.7(c) of First Bipartite Settlement. Hence, all the proceedings regarding holding of domestic enquiry treating it to be a case gross misconduct and awarding punishment likewise are illegal. Consequently, the punishment cannot be sustained.

4. In view of the fact that charge of gross misconduct has been held to be bad no useful purpose will be served if after setting aside enquiry report fresh chance is given to the management as disciplinary proceeding cannot be contained in illegal chargesheet. Consequently final award is being given.

5. In view of above my award is that order of punishment by way of stoppage of two increments awarded to the concerned workman is bad in law. It will be open to the bank to draw fresh proceedings to according with the rules taking it to be a case of minor misconduct.

Dated : 24-9-1998

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 18 सितम्बर, 1998

का. आ. 2003 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स ई. सी. एल. के प्रबन्धसूत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-9-98 को प्राप्त हुआ था।

[सं. एस-11025/5/82-डी-IV (बी)]

के. वी. बी. उण्णी, डेस्क अधिकारी

New Delhi, the 18th September, 1998

S.O. 2003.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. E.C. Ltd. and their workman, which was received by the Central Government on 16-9-1998.

[No. S-11025/5/82-D.IV (B)]

K. V. B. UNNY, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No 38 of 1982

PARTIES :

Employers in relation to the management of Girmint Colliery, P.O. Pariharpur, Dist. Burdwan of M/s. Eastern Coalfields Limited

AND

Their workmen.

PRESENT :

Mr. Justice A. K. Chakravarty, Presiding Officer.

APPEARANCE :

On behalf of Management—Mr. Arunava Ghosh, Advocate with Mr. R. Talukdar, Advocate and Mr. D. Mukhopadhyay, Advocate.

On behalf of Workmen—Mr. Amalash Kr. Mitra, Counsel with Mr. S. Mukherjee, Advocate for the Colliery Mazdoor Sabha (AITUC).

Mr. Ashis Kr. Das, Advocate with Mr. D. Ghosh, Advocate for the Colliery Mazdoor Sabha of India (CITU).

STATE : West Bengal

INDUSTRY : Coal

AWARD

By Order No. S-11025/5/82-D.IV (B) dated 11th October, 1982 the Central Government in exercise of its powers under Section 10(2) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal on transfer from the file of Central Government Industrial Tribunal, No. 3, Dhanbad :

“Whether the demand of underground loader of Girmint Colliery Post Office Pariharpur, District Burdwan (West Bengal) of Eastern Coalfields Limited for payment of extra wages for re-loading of fallen coal into conveyor belts for the period earlier to 21st August, 1978 is justified? If so, what should be the rate of such extra wages and how should it be computed? What should be the past period for which such wages shall be payable?”

2. The present reference was initially received by this Tribunal on 27-3-1979 and was registered as Reference No. 16 of 1979. Thereafter, as per Order No. S-11025/4/80-D.IV (B) dated 14/17th November, 1980 of the Central Government it was transferred to the Central Government Industrial Tribunal No. 3, Dhanbad where it was registered as Reference Case No. 79 of 1980. The reference was finally transferred to this Tribunal under Order No. S-11025/5/82-D.IV (B) dated 11th October, 1982 and was registered as Reference No. 38 of 1982.

3. The instant reference has arisen at the instance of the Colliery Mazdoor Sabha of India (CITU), Colliery Mazdoor Congress (HMS), Colliery Mazdoor Sabha (AITUC), Colliery Mazdoor Union (INTUC) and Koyla Mazdoor Congress (HMS) for determining the justification of the demand of the Underground Loaders of Girmint Colliery for payment of extra wages for re-loading of fallen coal into conveyor belts before 21-8-1978 and if such demand is found tenable for fixation of the rate of such extra wages and the period for which it will be payable.

4. Three written statements on behalf of the three unions were filed in this case.

5. In the written statement filed by the Colliery Mazdoor Sabha of India (CITU) it is alleged that Girmint Colliery is about 1250 feet deep and the underground loaders are to work in that depth in most uncomfortable condition by carrying coal by baskets from a distance of 80 feet to 90 feet for loading into the conveyor belt. The loaders are paid fixed wages for loading coal. As the conveyor belt during its journey of carrying coal is to move in a jig-jag fashion often changing points that large quantity of coal falls on the ground during its movement. The loaders are to re-load those fallen coals in the conveyor belt again but they do not get any wages for such extra work. The union accordingly prayed that the loaders be paid extra wages for re-loading of fallen coal in the conveyor belt.

6. The case made out by the Colliery Mazdoor Sabha (AITUC) in its written statement in short, is that prior to the Coal Mines (Nationalisation) Act, 1973 Girmint Colliery was owned and controlled by the private employer but the anti-labour policy of the management has not ceased even after nationalisation of the coal mines. It is alleged that though the Underground Loaders have to re-load the fallen coal into the conveyor belt, still then, they do not get any extra wages for such extra work and since they work on piece rate basis, there is substantial shortfall in the earnings of these workmen by reason of such deprivation. The Central Wage Board for Coal Mining Industry recommended extra wages for these types of work and the Central Government also accepted the recommendations of the Wage Board. There are about 514 Underground Loaders in the Girmint Colliery. After nationalisation of the Colli-

ries in 1973 the workmen made representations for implementation of the said recommendations of the Wage Board without any effect. The union also made subsequent representations to the same effect on 16-5-1975, 27-5-1976 and 19-1-1977. The management having refused to accede to the demand of the union, the concerned workmen were forced to resort to strike on and from 26-5-1978 and they resume their work on the basis of the Regional Labour Commissioner's request through his letter dated 13-6-1978. The management finally agreed to pay extra wages for re-loading of fallen coal into conveyor belts from 21-8-1978, but refused to pay the same for the earlier periods. An industrial dispute was raised which culminated in the present reference. The union has challenged such action of the management as illegal, unjustified, mala fide and a clear instance of unfair labour practice. The union accordingly prayed for holding that the Underground Loaders are entitled to extra wages from 1-5-1973 to 20-8-1978 at the rate recommended by the Central Wage Board for Coal Mining Industry or on the basis of the three months (September to November 1978) average earnings of the extra wages for re-loading of fallen coal into conveyor belts.

7. A written statement was also filed by the Koyla Mazdoor Congress with the same allegations as made by the other two unions referred to above.

8. The management of Girmint Colliery of Messrs Eastern Coalfield Ltd. filed its written statement alleging, inter alia, that coal miners of Girmint Colliery are loaded to a conveyor belt by Underground Loaders and carried by such conveyor belt to mine cars in which such coal is loaded. A small proportion of the coal falls off the conveyor belt during carriage between loading point to the mine car. Such fallen coal, at all material times prior to 21-8-1978, used to be put back on the conveyor belt by the time-rated Cleaning and Dusting Mazdoors. Underground Loaders did not do this work at all. From about January, 1978 the Underground Loaders began to agitate for extra wages for allegedly putting fallen coals to the conveyor belt. As a result of such agitation, the time-rated Cleaning and Dusting Mazdoors were withdrawn with effect from 21-8-1978. From 21-8-1978 the Underground Loaders have been doing the work of putting back fallen coals to the conveyor belts and for such work they are being paid at the same rate of basic wages as per loading without any other allowance whatsoever. The management accordingly denied any claim of these Underground Loaders for any extra wages upto 20-8-1978. The management has also alleged that even assuming that the claim is justified, still then, the rate should be 12% of the basic wage actually earned by a Underground Loader in a month and such payment should be made from February, 1978 when the agitation first began. The management also has denied that they are following any anti-labour policy like the private employers. Management accordingly prayed for rejection of the claims of the unions.

9. It appears from record that Colliery Mazdoor Sabha of India (CITU) contested the case by filing the written statement and examining one witness. No step was however taken by this union at the time of argument. The only union which is now contesting the matter is Colliery Mazdoor Sabha (AITUC). No step having been taken on behalf of any other union to contest the case, this Tribunal has no other alternative but to dispose of the matter upon hearing the argument advanced by Mr. Arunava Ghosh, learned Advocate representing the management and Mr. Amallesh Kr. Mitra, learned Counsel representing Colliery Mazdoor Sabha (AITUC).

10. One witness, namely, Batasa Chamar was examined on behalf of the Colliery Mazdoor Sabha (AITUC) and Colliery Mazdoor Sabha of India (CITU) examined another witness, namely, Shyamrathi Harijan. These unions also produced only two documents, namely, average earning on reloading Ext. W-1 and a sketch showing the movement of conveyor belt Ext. W-2. Management also has examined two witness, namely, S.C. Sahajawani and N. M. Gautam. Both of them are officers of the management. Management has also produced certain documents, namely, Ext. M-1, which is a sketch map of the path of the conveyor belt; Ext. M-2, a list of Cleaning & Dusting Mazdoors and General Mazdoor of Girmint Colliery, Ext. M-3, a register

of the employees employed in underground work, Ext. M-4 series, attendance registers of the workmen; Ext. M-5 series, wage sheets and Ext. M-6 series increment list of the employees.

11. The only point for consideration in this reference is whether the underground loaders shall be entitled to any extra wages for reloading of conveyor belt prior to 21-8-1978. The management's case in this matter, as stated earlier by me, is that prior to 21-8-1978 the underground loaders never reloaded the conveyor belt and that work used to be performed by the cleaning and dusting mazdoors. In support of his contention that it was these underground loaders who used to perform the reloading work as well, Mr. Mitra, learned Counsel for the union submitted that the term 'loader' shall automatically include the work of reloading and the management's case that the entirely different set of workers used to perform such work should not be believed. Mr. Mitra further submitted that Underground Loaders being piece-rated workers and Cleaning & Dusting Mazdoors being time rated workers, the management wants to deprive the formers by taking false plea that such work of reloading used to be done by the latter for the purpose of avoiding its liability of extra payment. Mr. Ghosh, learned Advocate for the management, however, submitted that the unions having never raised this claim before the early part of 1978, it can easily be understood that no such claim was made on behalf of the Underground Loaders as they did not perform such work of re-loading of coal in the conveyor belt.

12. For judging the truth or falsity of the claims made by the respective parties in this matter, it is necessary to go into the evidence on record. I have already stated the documentary evidence produced by the parties in this case. The documentary evidence, do not, by themselves, throw any light regarding performance of the work either by Underground Loaders or by Cleaning & Dusting Mazdoors. Mr. Mitra submitted with reference to Ext. M-4 series which are merely attendance registers that these documents having not shown the type of work performed by the underground loaders or the cleaning and dusting mazdoors that it will be helpful to the workmen as it's case is not negatived by these documents. Mr. Ghosh, on the other hand, submitted that these documents is not helpful either to the management or to the workmen. The documentary evidence produced by the parties, therefore, being thus incapable of throwing any hint as to whether the underground loaders or the cleaning and dusting mazdoors used to perform the work of reloading of coal into the conveyor belt, the evidence of the witnesses requires careful consideration for the purpose of deciding this question.

13. Before proceeding to discuss the evidence on record, it is to be noted that the unions having raised the demand for payment of extra wages for reloading, it is for them to prove that the underground loaders actually performed the work of reloading of conveyor belt. In respect of this matter, MW-1, Batasa Chamar stated in his evidence that the underground loaders were doing the work of reloading even prior to nationalisation and after nationalisation they made representation to the management for extra wages. He further stated that about 60 to 65 underground loaders used to remain engaged in reloading operation. He could not say whether there was any cleaning mazdoor. MW-2, Shyamrathi Harijan who was working in the colliery as an underground loader since 1956 stated that for loading coal in the conveyor belt they are to carry coal from a distance of 50 to 100 feet. He further stated that the conveyor belt carries coal to a distance of 9000 feet on average and there are 150 pillars and distance between the two pillars is 65 feet. He also stated that there are 150 underground loaders in his shift. He further stated that it is his duty to reload since by reloading he will get some extra wages. Certain thing emerge from the evidence of these two witnesses examined by the unions. In the first place, it is clear that the conveyor belt runs upto a distance of 9000 feet and there are number of pillars and bends in between. Secondly, the underground loaders working in a shift is 150. Thirdly, they are to carry coal in baskets from a distance of 50 feet to 100 feet for loading the same in the conveyor belt. If the above three positions are kept in mind, it will be difficult to understand how the underground loaders, whose primary duty is to load the conveyor belt, can pick up the fallen coals from the

conveyer belt upto a distance of about 2 kilometers. Yet another thing which strikes this Tribunal from these evidence is that admittedly the matter was settled between the parties in the conciliation proceeding wherein the cut-off date 21-8-1978 was fixed for the purpose of payment extra wages for reloading. By accepting such cut-off date as the date from which the concerned workmen shall be entitled to receive extra wages for reloading, they must be deemed to have waived any claim for earlier period. The acceptance of the cut-off date also means indirectly that a separate system of reloading of fallen coal in the conveyer belt was in existence in the colliery and that system was discarded and a new system was brought in for payment of extra wages to the underground loaders. There is no evidence here before this Tribunal that the question of payment of extra wages for the earlier period was left open in the said conciliation proceeding. The conclusion seems to be inescapable that any claim for an earlier period in respect of the said matter was not kept open as the concerned workmen had no claim for such period as a separate system of reloading of coal was in existence at that time.

14. The evidence adduced by the management in this matter also seems to be more acceptable than that of the unions. Both the witnesses examined on behalf of the management were officers of the Girmint Colliery and naturally they had better knowledge about the work allotted to the employees of the colliery. MW-1, S.C. Sahajawani was a Manager of the Girmint Colliery since December, 1977 to December, 1985. He drew up a diagram of the conveyer belt which is marked Ext. M-1. He stated in his evidence that though the system of reloading of coal in the conveyer belt by the cleaning and dusting mazdoors has been stopped since August, 1978 as per settlement, still then, some of these mazdoors are engaged for reloading of coal on the conveyer belt even after that date. There is no denial of the existence of the earlier system in the smaller form even after the cut-off date 21-8-1978 as stated by this witness in his cross-examination. The possibility of the existence of such a system of reloading of fallen coal by cleaning and dusting mazdoors thus cannot be ruled out. This witness also proved Ext. M-2 in which he has listed the names of cleaning and dusting mazdoors. He also stated that they are designated as General Mazdoors. He further stated that since he joined in December, 1977, he came to know about the previous system from record and also on enquiry. He also stated that cleaning and dusting mazdoors used to perform the work for reloading purposes in the conveyer belt before 21-8-1978 and they were withdrawn from that date. The other witness of the management is Mr. N. M. Gautam the General Manager. He was the Manager of the Girmint Colliery immediately before nationalisation of the colliery i.e. from 1972 till 1977. He admitted in his evidence that from 1975 to 1977 one of the demands of the unions was for payment for reloading of fallen coals to the underground loaders. He also denied that there is any basis of the demand of the workmen. He also proved Ext. M-4 series i.e. 'C' Form Registers. I have already mentioned that Ext. M-4 series do not throw any light about the duties of either underground loaders or the cleaning and dusting mazdoors. It further appears from his evidence that on the basis of the agitation in 1978 in the conciliation proceeding the management agreed to withdraw the time-rated workers and the question of deciding the rate for piece-rated workers was to be considered and that was finally fixed at 12 per cent. He also stated that no order was issued directing the underground loaders to perform the job of reloading. So upon consideration of the evidence on record along with the facts and circumstances of the case, I have no hesitation to hold that the unions have hopelessly failed to prove that the Underground Loaders used to perform the work of reloading of fallen coals on the conveyer belt prior to 21-8-1978. As a matter of fact, it has been adequately proved by the evidence on record that an entirely different system of reloading of the conveyer belt by Cleaning and Dusting Mazdoors General Mazdoors was prevalent in the colliery and that system was given a go-bye due to agitation and strike of the concerned workmen as a result of the settlement arrived at between the parties in the conciliation proceeding.

15. In view of the findings made above by me. I am to hold that the demand of the Underground Loaders of the Girmint Colliery for payment of extra wages for reloading of fallen coal into conveyer belt for the period earlier to 21-8-1978 is not justified. Fixation of rate of such extra wages and the period for which such extra wages is to be paid accordingly do not arise.

16. The workmen accordingly shall not be entitled to any relief in this case.

This is my Award.

Dated, Calcutta,
The 4th September, 1998.

A. K. CHAKRAVARTY, Presiding Officer

नई दिल्ली, 18 सितम्बर, 1998

का. आ. 2004 :- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स ई. सी. एल. के प्रबन्धनत्व के संवद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, ब्रह्मन्सोल के पंचद को प्रकटित करती है, जो केन्द्रीय सरकार को 16-9-98 को प्राप्त हुआ था।

[सं. एल.-22012/23/96-आई आर (सी-II)]

के. बी. बी. उण्णी, उक्त अधिकारी

New Delhi, the 18th September, 1998

S.O. 2004.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. E.C. Ltd., and their workman, which was received by the Central Government on 16-9-98.

[No. L-22012/23/96-IR (C-II)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL, ASANSOL.

Reference No. 9/97

PRESENT :

Shri R. S. Mishra, Presiding Officer

PARTIES :

Employers in relation to the management of Nab Kajora
Colliery of M/s. E. C. Ltd.,

AND

Their Workman

APPEARANCES :

For the Employer—Sri P. Banerjee, Advocate.

For the Workman—None.

INDUSTRY : Coal.

STATE : West Bengal.

Dated. the 2nd September, 1998

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following dispute to this Tribunal for adjudication vide Ministry of Labour's Order No. L-22012/23/96-IR (C.II) dated 24-2-97.

"Whether the action of the management of Nab Kajora Colliery under Kajora Area of M/s. ECL denying

the payment of idle period wage to S/Sh. Churaman Rout and Ram Narayan Cope is justified? If not, to what relief the workman are entitled?"

2. The union does not take any step in spite of sufficient adjournments.

3. Hence 'No Dispute Award' is passed.

R. S. MISHRA, Presiding Officer

नई दिल्ली, 18 सितम्बर, 1998

का. आ. 2005.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ.सी.आई. के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-9-98 को प्राप्त हुआ था।

[सं. एल-22012/48/96-आई आर (सी-II)]

के.वी.वी. उन्नी, डेस्क अधिकारी

New Delhi, the 18th September, 1998

S.O. 2005.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of F.C.I. and their workman, which was received by the Central Government on the 16-9-98.

[No. L-22012/48/96-IR(C-II)]

K.V.B. UNNY, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 44 of 1997

In the matter of dispute

BETWEEN

Daya Shanker Dubey,
S/o Shiv Murat Dubey,
31/4, Benajhabar,
Purani Colony, Kanpur.

AND

District Manager,
Food Corporation of India,
Civil Lines Kanpur.

AWARD

1. Central Government, Ministry of Labour, vide notification no. L-22012/48/96-IR-(C-II) dated 24-2-97, has referred the following dispute for adjudication to this Tribunal—

"Whether Sh. Daya Shanker Dubey was a workman of FCI Kanpur. If yes, whether the action of the management in termina-

ting his services w.e.f. 12-7-95 is legal and justified? If not what relief the workman is entitled to?"

2. The case of the concerned workman Daya Shanker Dubey is that he was engaged as a driver by the opposite party Food Corporation of India for driving vehicle in the office of District Manager Civil Lines Kanpur. He continued to work upto 12-7-95 when he was illegally removed from service in breach of provisions of section 25F of I. D. Act. Hence his termination is bad.

3. The case of the opposite party is that one Ganga Prasad was working as driver he was transferred to Lucknow hence as stop gap arrangement the concerned workman was engaged as driver through contractor M/s. Aneco Pharma. In this way he is not the direct employee of the opposite party.

4. In the rejoinder nothing new has been alleged.

5. In support of his case the concerned workman has examined himself as W.W.1 besides documents Ext. W-1 to W-22 were filed. In rebuttal the management has examined A.G.I. as M.W. 1 besides Ext. M-1 to M-8 were filed.

5. In the first place it will be seen if the concerned workman was a direct employee of the opposite party F.C.I. The concerned workman has denied this fact that he was engaged through contractor. Instead he was the direct employee of the opposite party. Papers W-1 to W-22 do not in any way lend support to the version of the applicant as they are in the form of representation and postal receipts. The opposite party has filed documents to show that applications were invited from M/s. Aneco Pharma and the firm was given contract to supply driver. The concerned workman was accordingly supplied by M/s. Aneco Pharma. Further Ramesh Chandra M.W.1 has specifically admitted that the concerned workman was a contract worker U/s 7 of Contract Labour (Regulation & Abolition) Act, 1970, employer has to get himself registered for having work on contract basis whereas under Sec. 12 of the Act as contractor has to take licence. Now it is settled law that if the management does not get itself registered and the contractor does not take licence in its absence contract labour as appointed it will be deemed that such worker is a direct employee of the principal employer. In view of this settled law I come to the conclusion that even the concerned workman was given the job of driver through M/s. Aneco Pharma he is a direct employee of the opposite party.

6. Admittedly, the concerned workman had continuously worked from 22-2-94 to 12-7-95 and in this way he had completed for more than 240 days. Further there is no dispute that the concerned workman was not paid retrenchment compensation and notice pay, hence his termination is clearly in breach of provisions of section 25F of I.D. Act. Accordingly my award is that the termination of the concerned workman is bad in law and he is entitled for reinstatement with back wages.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 18 सितम्बर, 1998

का. आ. 2006.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स ई. सी. एल. के प्रबन्धतंत्र के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण आसनसोल के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-9-98 को प्राप्त हुआ था।

[सं. एल.-22012/81/96-आई आर (सी-II)]
के. वी. बी. उण्णी, डेस्क अधिकारी

New Delhi, the 18th September, 1998

S.O. 2006.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. E.C. Ltd. and their workman, which was received by the Central Government on the 16-9-98.

[No. L-22012/81/96-IR(C-II)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL, ASANSOL

REFERENCE NO. 13/97

Present :

Shri R. S. Mishra, Presiding Officer.

Parties :

Employers in relation to the management of
Ghusik Colliery of M/s. E. C. Ltd.,

AND

Their Workmen

Appearances :

For the Employer—None.

For the Workman—None.

INDUSTRY : Coal STATE : West Bengal

Dated the 31st August, 1998

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following dispute to this Tribunal for adjudication vide Ministry of Labour's Order No. L-22012/81/96-IR(C-II) dated 10-3-97.

“Whether the action of the management of Ghusik Colliery under Seripur Area of ECL in proposing deployment of 20 wagon loaders from surface to underground working is

legal and justified ? If not, to what relief the concerned workmen are entitled ?”

2. The Union neither appears nor submits written Statement in spite of service of registered notice as reflected by the postal A/D cards. Apparently no more interested the dispute.

3. Hence ‘No Dispute Award’ is passed.

R. S. MISHRA, Presiding Officer

नई दिल्ली, 18 सितम्बर, 1998

का. आ. 2007.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स ई. सी. एल. के प्रबन्धतंत्र के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण आसनसोल के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-9-98 को प्राप्त हुआ था।

[सं. एल.-22012/131/96-आई आर (सी-II)]
के. वी. बी. उण्णी, डेस्क अधिकारी

New Delhi, the 18th September, 1998

S.O. 2007.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. E. C. Ltd., and their workman, which was received by the Central Government on the 16-9-98.

[No. L-22012/131/96-IR(C-II)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL, ASANSOL

REFERENCE NO. 30/97

Present :

Sri R. S. Mishra, Presiding Officer.

Parties :

Employers in relation to the management of
Sripur Area of M/s. E. C. Ltd.,

AND

Their Workman

Appearances :

For the Employer—None.

For the Workman—None.

INDUSTRY : Coal STATE : West Bengal

Dated the 31st August, 1998

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following dispute to this Tribunal for adjudication vide Ministry of Labour's Order No. L-22012/131/96-IR(C-II) dated 20-5-87.

"Whether the action of the management of Sripur Seam Incline Colliery of Sripur Area of ECL in denying wage protection to the workman Smt. Nago Devi on her conversion from piece-rated to time rated category-I worker w.e.f. November, 1989 is legal and justified? If not, to what relief is the workman entitled?"

2. The union does not file W. S. in spite of sufficient adjournments. Apparently no more interested in the dispute.

3. Hence 'No Dispute Award' is passed.

R. S. MISHRA, Presiding Officer

नई दिल्ली, 18 सितम्बर, 1998

का. अ. 2008.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उक्त सी. एल. के प्रबन्धन के संबंध निम्नलिखित और उनके कर्मचारियों के बीच, अनुबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट को प्रकाशित करती है; जो केन्द्रीय सरकार को 16-9-98 को प्राप्त हुआ था।

[सं. एल.-22012/165/92-आई आर (सी-II)]

के. वी. वी. उण्णी, डेस्क अधिकारी

New Delhi, the 18th September, 1998

S.O. 2008.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of W. C. Ltd. and their workman, which was received by the Central Government on the 16-9-98.

[No. L-22012/165/92-IR(C-II)]

K. V. B. UNNY, Desk Officer

अनुबंध

केन्द्रीय औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर
(म. प्र.)

डी. एन. दीक्षित

पीठासीन अधिकारी

प्र. क्र., सीजीआईटी/एलसी/आर/207/ 92

श्री विजयशंकर त्रिपाठी

मार्फत : त्रिपाठी फोटोस्टार सेंटर,

पो. : दम्प्रा

जिला : छिन्दवाड़ा (म. प्र.)

प्रार्थी

विरुद्ध

प्रोजेक्ट आफिसर,

तानसी प्रोजेक्ट, डब्ल्यू. सी. एल.,

पो. तानसी

जिला छिन्दवाड़ा (म. प्र.)

प्रतिप्रार्थी

अवार्ड

दिनांकित 26-08-1998

1. भारत सरकार, श्रम मंत्रालय, नई दिल्ली ने अपने आदेश संख्या: एल-22012/165/92-आई. आर. (सी-2) दिनांक 1-10-92 के द्वारा निम्नलिखित विवाद निराकरण हेतु इस अधिकरण को भेजा है:—

अनुसूची

"Whether the action of the Dy. Chief Mining Engineer/Project Officer, Tandsi Project of WCL Kanhan Area P.O. Tandsi, Via Rampur Dist. Chhindwara (M.P.) in terminating the services of Shri Vijay Shanker Tripathi, Ex-Auto helper of Tandsi Project of WCL on the ground of resignation w.e.f. 11-9-91 is justified? If not, to what relief the workman is entitled to?"

2. श्रमिक विजयशंकर त्रिपाठी के अनुसार वह वर्ष 1984 में नियुक्त हुआ और आटो हेल्पर कैटेगरी-2 के पद पर कार्यरत था। श्रमिक तानसी प्रोजेक्ट में वर्ष 91 में कार्यरत था। इस प्रोजेक्ट की लेबर कम्प्लेन्स को बीच-बीच एक शराब की दुकान इस्माइल डायवर अवैध रूप से चला रहा था। अगल-अगल कर रहे वाले लोगों को इस शराब की दुकान चलने पर एतराज था। दिनांक 9-9-91 को दुकान के मालिक ने गुण्डों की सहायता से श्रमिक पर हमला किया और बड़ी मुश्किल से श्रमिक ने अपनी रक्षा की। श्रमिक की शिकायत पर जब प्रबंधन ने कोई कार्यवाही नहीं की तो श्रमिक ने दिनांक 10-9-91 को अपने पद से त्याग-पत्र दिया। त्याग-पत्र श्रमिक ने दूसरी दिनांक 11-9-91 को वापस ले लिया। दि. 11-9-91 को श्रमिक ने सुबह 9.00 बजे से शाम 5.00 बजे तक काम किया। त्याग-पत्र वापस लेने के बाद भी प्रबंधन ने श्रमिक का त्याग-पत्र स्वीकार कर लिया। त्याग-पत्र स्वीकार होने की सूचना श्रमिक को दि. 13-9-91 को मिली। त्याग-पत्र स्वीकार हो जाने से करीब 75 मजदूरों ने अपने त्याग-पत्र प्रोटैस्ट में दिये। श्रमिक ने त्याग-पत्र स्वीकार हो जाने पर इसकी अपील प्रस्तुत की। इस अपील पर बिचार नहीं हुआ। श्रमिक के अनुसार उसे मासिक भुगतान मिलता था। इस कारण त्याग-पत्र देने से पहले एक माह का नोटिस देना आवश्यक था। बिना नोटिस के यह त्याग-पत्र स्वीकार

हुआ, इस कारण त्यागपत्र की स्वीकृति अवैध है। श्रमिक को एक माह का वेतन मिलना आवश्यक है, जो नहीं दिया गया। इस कारण भी उसका त्यागपत्र स्वीकृत नहीं हो सकता। श्रमिक के अनुसार उसने त्यागपत्र वापस ले लिया था, इस कारण उसे सेवा से पृथक नहीं किया जा सकता। श्रमिक चाहता है कि यह घोषित किया जाए कि उसका त्यागपत्र वापस लिया गया और वह लगातार कार्यरत है। श्रमिक दि. 11-9-91 से पुनः काम मिलने तक नियम के अनुसार वेतन और भत्ते की मांग करता है।

3 प्रबंधन के अनुसार वर्तमान प्रकरण में प्रोजेक्ट आफिसर, तानसी प्रोजेक्ट को पक्षकार बनाया गया है। वास्तव में श्रमिक डब्ल्यू. सी. एल. का कर्मचारी है और इन्हीं को इस प्रकरण में पक्षकार बनाना था। श्रमिक ने 10-9-91 को त्यागपत्र दिया, जो दिनांक 11-9-91 को स्वीकार किया गया। प्रबंधन के स्टैंडिंग आर्डर 32 के अनुसार प्रबंधन को यह अधिकार है कि वह त्यागपत्र दिनांक से ही इस्तीफा स्वीकार कर ले। त्यागपत्र में श्रमिक ने कोई अवधि नौकरी छोड़ने की नहीं लिखी थी। ऐसी हालत में उसी दिनांक से त्यागपत्र स्वीकृत करने में कोई वैधानिक बाधा नहीं है। श्रमिक का त्यागपत्र स्वीकार हो गया, इसके पश्चात् उसने त्यागपत्र वापस लेने का आदेश दिया। चूंकि त्यागपत्र स्वीकार हो गया था, इसलिए श्रमिक इस्तीफा वापस लेने का अधिकारी नहीं है।

4. श्रमिक का इस्तीफा दिनांक 10-9-91 प्रदर्श—डब्ल्यू—1 है। इस इस्तीफे में यह उल्लेख है कि श्रमिक को पेशान किया जा रहा है। यह भी उल्लेख है कि दिनांक 9-9-91 को शराब विक्रेता के गुण्डों ने उसे जान से मारने की धमकी दी। चूंकि श्रमिक के जीवन का खतरा है, इसलिए यह नौकरी छोड़ रहा है और इसका हिसाब-किताब जल्दी कर दिया जाए। प्रबंधन को श्रमिक का त्यागपत्र जब मिला तो इसे स्वीकार किया गया। यह पत्र प्रदर्श—डब्ल्यू—4 है। यह दिनांक 11-9-91 को भेजा गया है। इस्तीफा प्रदर्श—डब्ल्यू—1 में यह उल्लेख है कि “मेरा हिसाब-किताब जल्दी से जल्दी करने की कृपा करें तथा आज से जवाबदारी आपकी है।” इस प्रकार श्रमिक ने अविलम्ब त्यागपत्र स्वीकार होने की मांग की, जिसे प्रबंधन ने स्वीकार किया और उसका इस्तीफा दिनांक 11-9-91 से प्रभाव में आ गया।

5. इसके पश्चात् दिनांक 11-9-91 को श्रमिक ने इस्तीफा वापस लिया। ये प्रदर्श—डब्ल्यू—2 है। इसका उत्तर प्रबंधन ने प्रदर्श—डब्ल्यू—3 पत्र दिनांकित 11-9-91 के द्वारा दिया है। इसमें यह उल्लेख है कि चूंकि श्रमिक का त्यागपत्र स्वीकार कर लिया गया है और इस संबंध में आदेश श्रमिक को विये जा चुके हैं, इस कारण अब इस्तीफा वापस नहीं लिया जा सकता।

6. श्रमिक ने अपने शपथपत्र में कंडिका—1 में प्रति-परीक्षण में कहा है कि प्रदर्श—डब्ल्यू—1 त्यागपत्र उसने दिया है, यह त्यागपत्र उसने अपने होशोहवाश में दिया था। यह पत्र मैंने बिना दबाव के दिया था। इस पत्र को स्वीकार

किया गया तथा इसकी कापी उसे 2-3 दिन के बाद दी गई। स्वयं श्रमिक के अनुसार त्यागपत्र उसने पूरे होशोहवाश में बिना दबाव के दिया था। त्यागपत्र में उल्लेख है कि प्रबंधन उसी दिन से जवाबदारी ले ले। ऐसी स्थिति में प्रबंधन का उसी दिन से त्यागपत्र स्वीकार करना स्वाभाविक है।

7. श्रमिक की ओर से यह तर्क दिया गया कि स्टैंडिंग आर्डर, 1991 की कंडिका 24.3 में यह उल्लेख है कि जब तक लिखित नोटिस एक माह का नहीं दिया जाता, तब तक किसी भी श्रमिक को सेवा से पृथक नहीं किया जा सकता। वर्तमान प्रकरण में इसका पालन नहीं किया गया, इस कारण श्रमिक का त्यागपत्र स्वीकार करने का आदेश अवैधानिक और-नियमों के विपरीत है।

8. स्टैंडिंग आर्डर 24.3 में ही यह भी उल्लेख है कि प्रबंधन इस नोटिस की शर्त को शिथिल कर सकता है। वर्तमान प्रकरण में प्रबंधन ने नोटिस की शर्त को शिथिल किया है, इसका कारण यह है कि श्रमिक ने त्यागपत्र में ही लिखा था कि उसके जीवन का खतरा है तथा त्यागपत्र तुरन्त स्वीकार नहीं किया जाता तो जिम्मेदारी प्रबंधन की रहेगी। श्रमिक के जीवन के भय को देखते हुए प्रबंधन का एक माह का नोटिस का प्रबंधन शिथिल करना स्वाभाविक है। इसमें कोई अनियमितता अथवा अवैधानिकता नहीं है।

9. इस्तीफा वापस लेने के संबंध में प्रबंधन का पत्र प्रदर्श—डब्ल्यू—3 दिनांक 11-9-91 महत्वपूर्ण है। इसमें यह स्पष्ट उल्लेख है कि श्रमिक का आवेदन त्यागपत्र वापस लेने का जब मिला तब उसका त्यागपत्र स्वीकार हो गया था। ऐसी स्थिति में त्यागपत्र वापस लेने का अधिकार श्रमिक का समाप्त कर दिया गया। प्रबंधन का यह आदेश विधिवत है तथा इसमें हस्तक्षेप की आवश्यकता नहीं है।

10. ऊपर लिखी विवेचना का यह निष्कर्ष है कि श्रमिक ने स्वेच्छा से और बिना किसी दबाव के दिनांक 10-9-91 को त्यागपत्र दिया, जो 11-9-91 को स्वीकार हो गया। इसके पश्चात् श्रमिक ने त्यागपत्र वापस लेने का आवेदन दिया, जो इस कारण निरस्त हो गया, क्योंकि त्यागपत्र स्वीकार हो गया था। नियमानुसार प्रबंधन ने एक माह का नोटिस की अनिवार्यता शिथिल की है। इसमें किसी प्रकार की कुटिलता या अनियमितता नहीं है।

11. अवाई दिया जाता है कि श्रमिक को सेवाएं नियमानुसार और वैधानिक रूप से दिनांक 11-1-91 को समाप्त की गई है। श्रमिक कोई सहायता पाने का पात्र नहीं है। दोनों पक्ष इस प्रकरण में धरना-अधरना व्यवहार करें।

12. नियमानुसार अवाई की प्रतियां भारत सरकार, श्रम मंत्रालय, नई दिल्ली को प्रेषित की जाती है।

दिनांक 26-8-18 डी. एन. दीक्षित, पीठासीन अधिकारी,

नई दिल्ली, 13 सितम्बर, 1998

का. आ. 2009 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स ई. सी. एल. के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण आसनसोल के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-9-98 प्राप्त हुआ था।

[सं. एल.-22012/193/95-आई आर (सी-II)]

के. वी. बी. उण्णी, डेस्क अधिकारी

New Delhi, the 18th September, 1998

S.O. 2009.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal. Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. E. C. Ltd., and their workman, which was received by the Central Government on the 16-9-98.

[No. L-22012/193/95-IR(C-II)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL, ASANSOL

REFERENCE NO. 62/95

Present :

Shri R. S. Mishra, Presiding Officer.

Parties :

Employers in relation to the management of Central Kajora Colliery of M/s. E. C. Ltd.,

AND

Their Workman

Appearances :

For the Employer—Sri P. Banerjee, Advocate.

For the Workman—None.

INDUSTRY : Coal STATE : West Bengal

Dated the 2nd September, 1998

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following dispute to this Tribunal for adjudication by the Ministry of Labour's Order No. L-22012(193)/95-IR(C-II) dated 20-10-95.

“Whether the demand of the Union in placement of Sh. Kapildeo Ram, Pump Khalasi in Cat. IV with pay protection at Central Kajora Colliery under Kajora Area of M/s.

Eastern Coalfields Limited is justified or not ? If not, to what relief the workman is entitled ?”

2. The Union does not take any step in spite of sufficient opportunity. Apparently no more interest in the dispute.

3. ‘No Dispute Award’ is passed accordingly.

R. S. MISHRA, Presiding Officer

नई दिल्ली, 18 सितम्बर, 1998

का. आ. 2010 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस. ई. सी. एल. के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-9-98 को प्राप्त हुआ था।

[सं. एल.-22012/223/89-आई आर (सी-II)]

के. वी. बी. उण्णी, डेस्क अधिकारी

New Delhi, the 18th September, 1998

S.O. 2010.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of S.E.C. Ltd. and their workman, which was received by the Central Government on the 16-9-98.

[No. L-22012/223/89-IR(C-II)]

K. V. B. UNNY, Desk Officer

अनुबंध

केन्द्रीय औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर (म.प्र.)

डी. एन. दीक्षित

पीठासीन अधिकारी

प्र. क्र. सीजीआईटी/एलसी/आर/ 36/91

जनरल सेक्रेटरी,

छत्तीसगढ़ खदान कारखाना मजदूर यूनियन,

मु. पो. बांकीमोंगरा

जिला--बिलासपुर--495 447 (म. प्र.)प्रार्थी

विरुद्ध

सब एरिया मैनेजर,

एस. ई. सी. एल. बलगी प्रोजेक्ट,

पो. बलगी प्रोजेक्ट,

जिला बिलासपुर (म. प्र.) 495447प्रति प्रार्थी

अवार्ड

दिनांक : 9-9-1998

1. भारत सरकार, श्रम मंत्रालय, नई दिल्ली ने अपने आदेश संख्या एल-22012/223/89-आई. आर. (कोल-2) दिनांक 13-3-91 के द्वारा निम्नलिखित विवाद निराकरण हेतु इस अधिकरण को भेजा है :-

अनुसूची

"Whether the action of Sub Area Manager, Balgi Project of S.E.C. Ltd., of not granting promotion to Shri S. Chatterjee, Asstt. Foreman, is legal and justified? If not, to what relief the workman concerned is entitled to and from what date?"

2. दोनों पक्षों को स्वीकार है कि एस. ई. सी. एल. के बलगी प्रोजेक्ट का श्रमिक सहदेव चटर्जी, वेल्डर कैटेगरी-6 के पद पर कार्यरत थे। सब-एरिया मैनेजर ने असिस्टेंट फोरमैन पद भरने के लिए डिपार्टमेंटल प्रमोशन कमेटी की अनुशंसा प्राप्त की तथा इस अनुशंसा के अनुसार श्रमिक को प्रमोशन देकर असिस्टेंट फोरमैन दिनांक 13-8-87 को नियुक्त किया। दि. 8-9-87 को यह प्रमोशन आदेश निरस्त कर दिया गया। वर्तमान विवाद यह है कि क्या एस. ई. सी. एल. की बलगी प्रोजेक्ट को प्रमोशन आदेश निरस्त करने का अधिकार है।

3. श्रमिक का प्रमोशन आदेश दिनांक 13-8-87 निरस्त करने का अधिकार प्रबंधन को नहीं है ऐसा यूनियन का कथन है। उनका तर्क यह कि श्रमिक को डिपार्टमेंटल प्रमोशन कमेटी की अनुशंसा पर प्रमोशन दिया गया था। अगर यह प्रमोशन नियमों के विपरीत था तो बाद में यह तथ्य इसी डिपार्टमेंटल प्रमोशन कमेटी को बतलाये जाते और आदेश निरस्त करने का सुझाव डिपार्टमेंटल प्रमोशन कमेटी से ही प्राप्त करना था। दूसरा तर्क यह है कि प्रमोशन आदेश निरस्त करने के पूर्व श्रमिक को सुनवाई का अवसर देना अनिवार्य था। तीसरा तर्क यह है कि प्रमोशन केडर स्कीम में प्रमोशन आदेश पर पुनर्विचार करने और उसे वापस लेने का अधिकार किसी को नहीं है। चतुर्थ तर्क यह है कि वेल्डर कर्मियों का चैनल इलेक्ट्रिकल, मैकेनिकल आकजीलरी ग्रेड के साथ जुड़ा हुआ है। इसी अनुसार बलगी प्रोजेक्ट ने अपने वेल्डर को असिस्टेंट फोरमैन बनाया और बैकुटपुर एरिया ने अपने दो वेल्डर को असिस्टेंट फोरमैन बनाया इस प्रकार यह प्रथा है कि वेल्डर को असिस्टेंट फोरमैन के पद पर पदोन्नति दी जाए।

4. प्रबंधन के अनुसार रिक्रैन्ज जिस प्रकार किया गया है, इस न्यायालय में विचारणीय नहीं है। वेल्डर कैटेगरी के लिए कोई प्रमोशन चैनल नहीं है। बलगी प्रोजेक्ट में श्रमिक श्रकेले वर्ग-6 के वेल्डर है। यहां पर असिस्टेंट फोरमैन की आवश्यकता नहीं है। श्रमिक का प्रमोशन नियमों के विपरीत हुआ था, इस कारण उन्हें अपने पूर्व पद वेल्डर कैटेगरी-6 में वापस कर दिया गया। प्रबंधन चाहता है कि श्रमिक को कोई सहायता नहीं दी जाए।

5. श्रमिक की ओर से उसका शपथ-पत्र प्रस्तुत किया गया। इस पर प्रबंधन के अधिभाषण ने प्रतिपरीक्षण किया है। श्रमिक ने प्रमोशन केडर के बारे में लेख डब्ल्यू-1 से डब्ल्यू-4 प्रस्तुत किये हैं। प्रबंधन ने श्री एस. पी. चौबे का शपथ-पत्र दिया। यह श्रमिक को पदोन्नति देने और वापस लेने किसी भी कार्यवाही में भागीदार नहीं थे। प्रबंधन की ओर से प्रमोशन देने और वापस लेने के कोई लेख न्यायालय में प्रस्तुत नहीं किये गये हैं। केडर स्कीम के संबंध में प्रबंधन के गवाह श्री एस. पी. चौबे की व्याख्या का कोई महत्व नहीं है।

6. प्रमोशन आदेश दिनांक 13-8-87 को वापस लेने से पहले प्रबंधन ने श्रमिक को अपना पक्ष रखने का अवसर नहीं दिया। श्रमिक को ऐसा कोई नोटिस नहीं दिया गया कि प्रबंधन आदेश दिनांक 13-8-87 को निरस्त करने पर विचार कर रहा है। एक बार श्रमिक जब प्रमोशन पा गया था तो उसे निरस्त करने के पूर्व उसकी सुनवाई का अवसर देना अनिवार्य था। न्याय के नैसर्गिक सिद्धांतों के अनुसार सुनवाई का अवसर श्रमिक को नहीं दिया गया।

7. श्रमिक का प्रमोशन डिपार्टमेंटल प्रमोशन के कमेटी की अनुशंसा पर किया गया था। इस अनुशंसा को निरस्त करने से पहले प्रबंधन को इस कमेटी को यह बताना अनिवार्य था कि किन कारणों से प्रमोशन आदेश निरस्त होने योग्य है, ऐसा नहीं किया गया। केवल एक व्यक्ति की अवधारणा पर प्रमोशन आदेश निरस्त किया गया है। इस प्रकार की प्रक्रिया अवैधानिक है।

8. प्रमोशन पालिसी कमेटी क्रियान्वयन आदेश सं. 30 दि. 26-6-84, इलेक्ट्रिकल तथा मैकेनिकल विभाग के लिये प्रमोशन केडर की स्कीम है। क्रम संख्या-4 में डिपार्टमेंटल प्रमोशन कमेटी और उसके क्रियान्वयन की व्यवस्था नीचे लिखे अनुसार है :-

"उच्चतर कैटेगरी/ग्रेडों में रिक्त पदों को भरने के लिये उम्मीदवारों का चयन डिपार्टमेंटल प्रमोशन कमेटी की अनुशंसाओं पर किया जायेगा। इस समिति का गठन कंपनी के अथारिटी द्वारा किया जायेगा। डिपार्टमेंटल प्रमोशन कमेटी की अनुशंसाओं पर कंपनी के अथारिटी का निर्णय अंतिम होगा।"

डिपार्टमेंटल प्रमोशन कमेटी की अनुशंसा पर कंपनी के अथारिटी ने अंतिम निर्णय लेकर प्रमोशन आर्डर प्रसारित कर दिये। ऐसी अवस्था में उस पर पुनर्विचार करने अथवा उसे वापस लेने का उनको कोई अधिकार नहीं रह गया है। स्कीम में ऐसी कोई व्यवस्था नहीं है।

9. इलेक्ट्रिकल और मैकेनिकल मेटेनेंस विभाग के वेल्डर कर्मियों के प्रमोशन चैनल एनेक्जर-7-10 में उल्लेख है कि इनकी सुपरवाइजरी ग्रेड में प्रमोशन पर विचार दूसरे इलेक्ट्रिकल मैकेनिकल आकजीलरी ग्रेड के साथ किया जायेगा। इसका तात्पर्य यह है कि मैकेनिकल फिदर्स कर्मियों के प्रमोशन चैनल 7.13 की सहायता से वेल्डर

को असिस्टेंट फोरमैन के पद पर पदोन्नति दी जा सकती है। इस संबंध में यूनियन ने डब्ल्यू-7 का पत्र प्रस्तुत किया है।

10. एस.ई.सी.एल. की ही बैकुंठपुर एरिया के विश्रामपुर प्रोजेक्ट ने वैल्डर कैटेगरी-6 श्री गुनाकर नंदी और मेहरबान सिंह को दि. 31-7-89 से असिस्टेंट फोरमैन पदोन्नत किया। इस दृष्टान्त से भी श्रमिक के कथन की पुष्टि होती है।

11. कैडर स्कीम के पहले भी इलैक्ट्रिकल मैकेनिकल कैडर के वैल्डर कमियों को सुपरवाइजरी ग्रेड में असिस्टेंट फोरमैन के पद पर पदोन्नति दी गई है। उदाहरण के लिये गिरडी अस्गड़ा कालरी ने दिनांक 9-9-80 को अपने वैल्डर सर्व भी पूरनसिंह, इंद्रदेव सिंह, सी.बी. चटर्जी और निरोधकुमार मंडल को असिस्टेंट फोरमैन के पद पर पदोन्नति किया है। इस प्रकार कोयला उद्योग में वैल्डर को असिस्टेंट फोरमैन में पदोन्नत करने की प्रथा है।

12. प्रबंधन ने इस प्रकरण में कोई लेख, शिकायत, टीप, सरकूलर ऐसे प्रस्तुत नहीं किये, जिससे यह ज्ञात हो कि प्रमोशन आदेश वापस लेने के लिये प्रबंधन सक्षम है।

13. प्रबंधन की ओर से यह कहा गया कि बलगी प्रोजेक्ट में श्रमिक अकेले वैल्डर कैटेगरी-6 है, इस कारण इसका प्रमोशन असिस्टेंट फोरमैन के पद पर नहीं हो सकता। यह तर्क मात्र औपचारिकता प्रतीत होती है। सामान्यतः जब प्रमोशन पोस्ट नहीं होती तो कमियों को तबाबला करके उस संस्था में रखा जाता है, जहां यह पोस्ट होती है। श्रमिक को ऐसा कोई प्रस्ताव नहीं दिया गया कि बलगी प्रोजेक्ट में पोस्ट नहीं है और वे आगे अन्य किसी स्थान में प्रमोशन को पाने जायेंगे। दूसरा विकल्प यह है कि श्रमिक से काम कुछ भी लिया जाये, किन्तु उनको वेतन लाभ असिस्टेंट फोरमैन का दिया जाये। एक बार जब डिपार्टमेंटल प्रमोशन कमेटी ने श्रमिक को असिस्टेंट फोरमैन पद के लिये योग्य पाया और इस अनुशांसा को प्रबंधन ने भी स्वीकार किया तब इस आधार पर प्रमोशन निरस्त करना कि प्रोजेक्ट में पोस्ट नहीं है, श्रमिक के साथ अन्याय है। प्रबंधन को या तो श्रमिक का स्थानांतरण अन्य स्थान में करना था, जहां असिस्टेंट फोरमैन की पोस्ट होती अथवा उसे प्रमोशन का वेतन लाभ देना था। श्रमिक को प्रमोशन लाभ और विचारणीय लाभ इसलिए नहीं मिले क्योंकि पोस्ट नहीं थी। प्रमोशन आदेश की निरस्ती श्रमिक को किसी कमी के कारण नहीं किया गया है।

14. उपर लिखी विवेचना का निष्कर्ष यह है कि प्रमोशन निरस्त करने की दिनांक 8-8-87 अवैधानिक है। दिनांक 13-8-87 के आदेश से श्रमिक को असिस्टेंट फोरमैन बनाया गया था और वे इस पद पर अर्वाह दिनांक तक पक्षस्थ माने जायेंगे। इस पद का वेतनमान और भत्ते

दिनांक 13-8-87 से अर्वाह तक श्रमिक पाने के अधिकारी होंगे। इस पद की सभी सुविधाएं वेतन वृद्धि भी श्रमिक पाने के अधिकारी होंगे। दिनांक 13-8-87 से अगर प्रमोशन में श्रमिक का हक बनता होगा तो उस पर प्रबंधन अर्वाह मुक्ति होने के तीन माह के अन्दर विचार कर श्रमिक को प्रमोशन देगा। अर्वाह मुक्ति होने के तीन माह के अन्दर श्रमिक को सभी राशि का भुगतान होगा, अगर ऐसा नहीं किया जाता तो अर्वाह मुक्ति होने के तीन माह के बाद से भुगतान तक रुकी हुई राशि पर श्रमिक को 12 प्रतिशत प्रतिवर्ष की दर से ब्याज पाने का अधिकार रहेगा। इसी अनुसार अर्वाह दिया जाता है। दोनों पक्ष इस प्रकरण का अपना-अपना व्यय वहन करें।

15. नियमानुसार अर्वाह की प्रतियां भारत सरकार, श्रम मंत्रालय, नई दिल्ली को प्रेषित की जाती है।

डी. एन. दीक्षित, पीठासीन अधिकारी

नई दिल्ली, 18 सितम्बर, 1998

का. आ. 2011.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस. ई. सी. एल. के प्रवन्धन के संबंध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-9-98 को प्राप्त हुआ था।

[सं. एल-22012/274/92-आई आर (सी-II)]
के. बी. बी. उन्नी, डेस्क अधिकारी

New Delhi, the 18th September, 1998

S.O. 2011.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of S.E.C. Ltd. and their workman, which was received by the Central Government on the 16-9-98.

[No. L-22012/274/92-IR(C-II)]

K. V. B. UNNY, Desk Officer

अनुबन्ध

केन्द्रीय औद्योगिक अधिकरण एवं श्रम न्यायालय,
जबलपुर (म.प्र.)

डी. एन. दीक्षित

पीठासीन अधिकारी

प्र. नं. सीजीआईटी/एलसी/आर/14/93

सचिव,
एस. के. एम. एस. (एटक)
पो. वेस्ट चिरमिरी कालरी,
जिला सरगुजा (म. प्र.)

दिनांक

डिप्टी जनरल मैनेजर,
वेस्ट चिरमिरी कालरी,
पो. वेस्ट चिरमिरी कालरी,
जिला सरगुजा (म. प्र.)

...प्रार्थी

...प्रतिप्रार्थी

अर्वाइ

दिनांक 9-9-98

1. भारत सरकार, श्रम मंत्रालय, नई दिल्ली ने अपने आदेश संख्या एन-22012/274/92-आई.आर. (सी-2) दिनांक 14-1-93 के द्वारा निम्नलिखित विवाद निराकरण हेतु इस अधिकरण को भेजा है :--

अनुसूची

"Whether the action of Dy. General Manager, West Chirimiri Colliery of S.E.C. Ltd. in retiring Shri Musa S/o Haribandu w.e.f. 4-7-91 is in accordance with the provisions of Implementation Instruction No. 76 of JBCCI ? If not, to what relief the workman concerned is entitled to ?"

2. वर्तमान प्रकरण श्रमिक की गवाही के लिए दिनांक 13-2-98 को नियत था। इस दिनांक को श्रमिक उपस्थित नहीं हुआ। दिनांक 26-3-98 को पुनः श्रमिक अनुपस्थित रहा और उसे अंतिम अवसर साध्य प्रस्तुत करने के लिए दिया गया। दिनांक 25-5-98 को तीसरी बार लगातार श्रमिक अनुपस्थित रहा और प्रकरण अर्वाइ हेतु नियत किया गया। दिनांक 25-5-98 से आज तक श्रमिक ने कोई आवेदन इस प्रकरण को पुनः नंबर पर लाने के लिए नहीं किया। ऐसा प्रतीत होता है कि श्रमिक को इस विवाद में कोई रुचि नहीं रही। अर्वाइ प्रबंधन के पक्ष में दिया जाता है। दोनों पक्ष इस प्रकरण का अपना-अपना व्यय वहन करें।

3. नियमानुसार अर्वाइ की प्रतियां भारत सरकार, श्रम मंत्रालय, नई दिल्ली को प्रेषित की जाती है।

डॉ. एन. दीक्षित, पीठामीन अधिकारी

नई दिल्ली, 18 सितम्बर, 1998

का. आ. 2012.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैमर्स ई.सी.एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण

आसनसोल के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-9-98 को प्राप्त हुआ था।

[सं. एन-22012/301/90-आई आर (सी-II)]
के. वी. बी. उण्णी, डेस्क अधिकारी

New Delhi, the 18th September, 1998

S.O. 2012.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s E.C. Ltd. and their workman, which was received by the Central Government on the 16-9-98.

[No. L-22012/301/90-IR(C-II)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL, ASANSOL

Reference No. 3/91

PRESENT :

Shri R. S. Mishra,
Presiding Officer.

PARTIES :

Employers in relation to the management of
Jaykaynagar Colliery of M/s. E.C. Ltd.,

AND

Their Workman

APPEARANCES :

For the Employer—Sri P. K. Das, Advocate.

For the Workman—None.

INDUSTRY : Coal STATE : West Bengal

Dated the 2nd September, 1998

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following dispute to this Tribunal for adjudication vide Ministry of Labour's Order No. L-22012/301/90-IR (C.II) dated 7-2-91.

"Whether the action of the management of Jaykaynagar Colliery of M/s. ECL in not providing employment to the dependant of Sri Shyama Pada Choudhury Ex. despatch Superintendent, as per Clause 10 : 4 : 3 of NCWA-II was justified ? If not, to what relief the workman is entitled ?"

2. The union neither appears nor takes any step in spite of sufficient adjournments.

3. Hence 'No Dispute Award' is passed.

R. S. MISHRA, Presiding Officer.

नई दिल्ली, 18 सितम्बर, 1998

का. आ. 2013.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ. सी. आई. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-9-98 को प्राप्त हुआ था।

[सं. एन. 22012/398/96-आई आर (सी-II)]
के. वी. बी. उण्णी, डेस्क अधिकारी

New Delhi, the 18th September, 1998

S.O. 2013.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of F.C.I. and their workman, which was received by the Central Government on the 16-9-98.

[No. L-22012/398/96-IR(C-II)]
K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SHRI B. K. SRIVASTAVA, PRESIDING
OFFICER, CENTRAL GOVERNMENT INDUS-
TRIAL TRIBUNAL-CUM-LABOUR COURT,
PANDU NAGAR, KANPUR

Industrial Dispute No. 169/97
In the matter of dispute between :
State Secretary
Bhartiya Karamchari Sangh
5-6 Habibullah Estate
Hazratganj Lucknow

AND

Senior Regional Manager
F.C.I. 5-6 Habibullah Estate
Hazratganj, Lucknow

APPEARANCE :

Shri V. K. Gupta for the Management
None for the workman

AWARD

1. Central Government Ministry of Labour New Delhi vide its Notification No. L-22012/398/96-I.R. (C-II) dated 29-8-97/2-9-97 has referred the following dispute for adjudication to this Tribunal :

Whether the demands of the BKN Karamchari Sangh, Lucknow for placing Shri Suraj Mal AG.II(D) at S.N. 120 of the Seniority List

of AG II (D) issued by the management of 22-8-91 and promoting him as AGI(D) from the date of promotion of Sh. Chandra Prakash Dixit are legal and justified? If so to what relief is the workman entitled?

2. The case of the concerned workman Suraj Mal is that he was appointed as A.G.-III(D) at Agra on 6-6-72. He was promoted as A.G.-II(D) on 30-12-80. On 5-2-91 the opposite party has issued a seniority list of A.G.-II(D) in which the name of the concerned workman is not found. His seniority should be at S. No. 120 in the above list. Further he is entitled for A.G.-I(D) from 22-8-91.

3. The opposite party has contested the claim.

4. Repeated opportunities were given to the concerned workman but he fail to adduce any evidence.

5. In its absence my award is that there is no flaw in seniority list. Consequently the concerned workman is not entitled for promotion on as A.G.-I as claimed by him.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 18 सितम्बर, 1998

का. आ. 2014.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एम. सी. ई. एल. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध 5 निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-9-98 को प्राप्त हुआ था।

[सं. एन. -22012/437/90-आई आर (सी-II)]
के. वी. बी. उण्णी, डेस्क अधिकारी

New Delhi, the 18th September, 1998

S.O. 2014.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of S.E.C. Ltd. and their workman, which was received by the Central Government on the 16-9-98.

[No. L-22012/437/90-IR(C-II)]
K. V. B. UNNY, Desk Officer

अनुबंध

केन्द्रीय औद्योगिक अधिकरण एवं श्रम न्यायालय,
जबलपुर (म.प्र.)
जी.एन. दीक्षित
पीठासीन अधिकारी
प्र.क्र. सीजीआईटी/एलसीआर/60/91

उपाध्यक्ष,

नैशनल कॉलियरी वर्क्स फेडरेशन,
पो. नौरोजाबाद कॉलियरी,
जिला शहडोल (म.प्र.)-484555

—प्रार्थी

विरुद्ध

जनरल मैनेजर,
सोहागपुर एरिया आफ
एम.ई.सी.एल.

पो. धनपुरी,
जिला शहडोल-484114(म.प्र.) —प्रतिप्रार्थी

अवार्ड

दिनांक 27/8/98

1. भारत सरकार, श्रम मंत्रालय, नई दिल्ली ने अपने आदेश संख्या एल-22012/437/9-आई. आर. (कोल-2) दिनांक 3-9-91 के द्वारा निम्नलिखित विवाद निराकरण हेतु इस न्यायालय को भेजा है :—

अनुसूची

“Whether the action of the management of General Manager, Sohagpur Area of S.E.C. Ltd., in dismissing from services of their workman Shri Din Dayal Tripathi, Store Keeper is legal and justified? If not, to what relief the workman is entitled?”

2. प्रबंधन के अनुसार श्रमिक श्री दीनदयाल त्रिपाठी खंगटा कालरी, एम.ई.सी.एल. में वर्ष 82 में स्टोर-कीपर थे। उन्होंने जून, 1982 में दो मनी रिसिप्ट की प्रतियां स्टेशन मास्टर, अमलई (दू.पू.रे.) से प्राप्त की, जिनमें राशि रुपये 12,069.20 और रुपये 12,239.20 थी। श्रमिक ने कालरी को यह रसीद बताकर रुपये प्राप्त किये और कालरी को यह बताया कि उसने इन दोनों रसीदों का भुगतान स्टेशन मास्टर, अमलई को किया है। वास्तविक तथ्य यह है कि श्री एस.के. दीक्षित, मेग्जिन क्लर्क, खंगटा कालरी ने यह राशि पहले ही खंगटा कालरी से प्राप्त कर ली थी और इन दोनों का भुगतान स्टेशन मास्टर, अमलई को ही चुका था। श्रमिक ने खंगटा कालरी को धोखे में रखकर रुपये 24,308.40 प्राप्त किये और अपने पास रखे। इस राशि का भुगतान श्रमिक ने स्टेशन मास्टर अमलई को नहीं किया। श्रमिक को दिनांक 29-2-88 को आरोप-पत्र दिया गया और इसका उत्तर श्रमिक ने 2-3-88 को प्रस्तुत किया। इसके पश्चात् श्रमिक के विरुद्ध विभागीय जांच की गई। श्रमिक को जांच अधिकारी ने दोषी पाया और उनकी रिपोर्ट पर नियंत्रक अधिकारी ने श्रमिक को सेवामुक्त किया।

3. श्रमिक के अनुसार विभागीय जांच में बहुत सी अनियमितताएं थी और उसे पूरा अवसर अपने बचाव का नहीं मिला। दण्ड भी कदाचार के अनुपात में बहुत ज्यादा है। श्रमिक चाहता है कि सेवानिवृत्ति का आदेश निर-

किया जाये तथा उसे सेवानिवृत्ति से लेकर पुनर्स्थापना तक नियमों के अनुसार वेतन और भत्ते दिये जायें। श्रमिक के अनुसार जरूरी गवाहों के कथन विभागीय जांच में नहीं लिखे गये। श्रमिक के अनुसार वर्तमान आरोप-पत्र की जांच 6 वर्ष पहले हो चुकी है और दूसरी बार अकारण ही यह जांच की जा रही है। श्रमिक के अनुसार जांच अधिकारी ने गलत निष्कर्ष निकाले तथा प्रबंधन को अंधेरे में रखा। श्रमिक चाहता है कि उसे पुन. सेवा में लिया जाये।

4. विभागीय जांच के संबंध में इस न्यायालय ने आदेश दिनांक 9-3-95 के द्वारा यह पाया है कि विभागीय जांच सही, निष्पक्ष और उचित है। इस आदेश के प्रकाश में अब यह विवेचना होगी कि श्रमिक के विरुद्ध मिसकंडक्ट सिद्ध हुआ या नहीं तथा उसे जो दण्ड दिया गया वह कदाचारण के अनुपात में है अथवा नहीं है।

5. श्री बी.एम. त्रिपाठी, सीनियर पर्सनल आफिसर ने श्रमिक के विरुद्ध विभागीय जांच की है। उन्होंने अपनी रिपोर्ट 22-4-89 प्रस्तुत की और इस रिपोर्ट में श्रमिक को दोषी पाया। विभागीय जांच में प्रबंधन ने 7 लेख प्रदर्श एम-1 से एम-7 तक प्रस्तुत किये और गवाहों के कथन कगये। प्रबंधन ने यह सिद्ध किया कि श्री श्याम कुमार दीक्षित मेग्जिन क्लर्क ने 30,000/- रुपये कालरी से प्राप्त किये और रेलवे स्टेशन, अमलई में रुपये 12,239.20 और रुपये 12,069.20 का भुगतान किया और रेलवे रसीद 039492 और 039493 प्राप्त किया। बाकी की राशि श्री श्याम कुमार दीक्षित ने 11-6-82 और 23-9-82 को कालरी से जमा की। इसके पश्चात् श्रमिक ने रेलवे से डुप्लीकेट वाउचर प्राप्त किये और कालरी से रुपये 24,308.40 प्राप्त किये। यह राशि श्रमिक ने स्टेशन मास्टर, अमलई को कभी नहीं दी। इस प्रकार श्रमिक ने खंगटा कालरी को नुकसान पहुंचाकर तथा स्वयं को फायदा पहुंचाने हेतु रुपये 24,308.40 प्राप्त किये। श्रमिक का मिस. कंडक्ट प्रबंधन के द्वारा प्रस्तुत साक्ष्य प्रदर्श एम-1 से एम-11 के द्वारा सिद्ध हो जाता है।

6. श्रमिक ने प्रबंधन को धोखा दिया और रुपये 24,308.40 प्राप्त किये। कर्मचारी का इस प्रकार का कृत्य कदाचारण है और इससे सेवा समाप्ति का आदेश ही उचित दण्ड है। मैं यह पाता हूं कि कर्मचारी को जो दण्ड दिया गया, वह कदाचारण के अनुरूप है।

7. ऊपर लिखी विवेचना का निष्कर्ष यह है कि श्रमिक कोई सुविधा पाने का अधिकारी नहीं है। प्रबंधन द्वारा दिये गये दण्ड की पुष्टि की जाती है। यही अवार्ड इस प्रकरण में दिया जाता है। दोनों पक्ष इस प्रकरण का अपना-अपना व्यय वहन करें।

8. नियमानुसार अवार्ड की प्रतियां भारत सरकार, श्रम मंत्रालय, नई दिल्ली को प्रेषित की जाती है।

डी.एन. दीक्षित, पीठासीन अधिकारी

नई दिल्ली, 18 सितम्बर, 1998

का.प्रा. 2015.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सैमस ई.सी.एल. के प्रबन्धन के संज्ञा नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण आसनसोल के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/9/98 को प्राप्त हुआ था।

[सं. एल-22012/5/97-आई.आर. (सी-II)]

कै.वी.बी. उण्णी, डेस्क अधिकारी

New Delhi, the 18th September, 1998

S.O. 2015.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s E.C. Ltd. and their workman, which was received by the Central Government on the 16-9-98.

[No. L-22012/5/97-IR(C-II)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL, ASANSOL

Reference No. 7/98

PRESENT :

Shri R. S. Mishra,
Presiding Officer.

PARTIES :

Employers in relation to the management of
Haripur Colliery of M/s. E.C. Ltd.,

AND

Their Workman

APPEARANCES :

For the Employer—None.

For the Workman—None.

INDUSTRY : Coal. State : West Bengal.

Dated the 31st August, 1998

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, has referred the following dispute to this Tribunal for adjudication vide Ministry of Labour's Order No. L-22012/5/97-IR(C-II) dated 5/11-3-98.

“Whether the action of the management of Haripur Colliery under Kenda Area of M/s. ECL in denying the SPRA benefit

equally like other co-workers to Sh. Samar Kurmi, Tramer is justified? If not, what relief the workman is entitled to?”.

2. The union neither appears nor takes any step in spite of service of registered notice as reflected by the postal department reply. Apparently no more interested in the dispute.

3. Hence ‘No Dispute Award’ is passed.

R. S. MISHRA, Presiding Officer

नई दिल्ली, 22 सितम्बर, 1998

का.प्रा. 2016—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बोलाणी औरस माईन्स आर.एम.डी., एस.आई.ए.एल., के प्रबन्धन के संज्ञा नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निश्चित औद्योगिक विवाद में औद्योगिक अधिकरण, राऊरकेला के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 22/9/98 को प्राप्त हुआ था।

[सं. एल-26011/4/95-आई.आर. (विधि)]
कै.वी.बी. उण्णी, डेस्क अधिकारी

New Delhi, the 22nd September, 1998

S.O. 2016.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Rourkela as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bolani Ores Mines, RMD, SAZI and their workman which was received by the Central Government on the 22-9-98.

[No. L-26011/4/95-IR(Misc.)]

K. V. B. UNNY, Desk Officer

ANNEXURE

IN THE COURT OF THE PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL, ROURKELA

Industrial Dispute Case N. 98/97 (C)

Dated, the 17th July, 1998

Present :

Shri R. N. Biswal, LL.M.,
(O.S.J.S. Sr. Branch),
Presiding Officer,
Industrial Tribunal,
Rourkela.

BETWEEN

The Asstt. General Manager
Bolani Ores Mines, RMD, SAIL
P.O. Bolani, Distt. Keonjhar . 1st party

AND

The General Secretary,
Barbil Workers Union,
P.O. : Barbil Distt. : Keonjhar . 2nd party

Appearance :

For the 1st party—None.

For the 2nd party—None.

AWARD

ANNEXURE

The Govt. of India in Ministry of Labour Department in exercise of their power conferred under clause (d) of sub-section (1) and sub-section 2 (a) of section 10 of the Industrial Disputes Act, 1947 have referred the following dispute vide the reference No. L-26011/4/95-IR (Misc.) for adjudication.

1. "Whether the action of the management of Polani Ores Mines, Raw Material Division, SAIL, P.O. : Bolani Distt. : Keonjhar in not giving incentive bonus and reward bonus to the workers of hand mining section at part with machine mining section is justified ? If not, what relief the workmen are entitled ?"

2. "Whether the action of the management of Bolani Ores Mines, Raw Material Division, SAIL, PO : Bolani, Distt. : Keonjhar in not fixing the workers in the Semi-skilled category (L-2) when they are transferred to machine mining section from hand mining section is justified ? If not to what relief the workman are entitled to ?"

2. The case was fixed on 15-7-98 for hearing. Since neither of the parties appeared before this Tribunal on that date, it can be presumed that, at present there is no dispute between them or they have amicably settled the dispute out side the Court in the mean time. Accordingly No Dispute Award is passed.

R. N. BISWAL, Presiding Officer

नई दिल्ली, 22 सितम्बर, 1998

का.भा. 2017—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पुर्नापानी लाईम स्टोन क्वारी, भार.एम.डी., एन.आई.एम.एल. के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबन्ध में निम्नलिखित औद्योगिक विवाद में औद्योगिक अधिकरण, राऊरकेला के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-9-98 को प्राप्त हुआ था।

[सं. एल-26012/11/94-आई.आर. (विविध)]

के.वी.बी. उन्नी, डेस्क अधिकारी

New Delhi, the 22nd September, 1998

S.O. 2017.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Rourkela as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Purnapani Limestone and Dolomite Quarry RMD, SAIL and their workman, which was received by the Central Government on the 22-9-1998.

[No. L-26012/11/94-IR (Misc.)]

K. V. B. UNNY, Desk Officer

IN THE COURT OF THE PRESIDING OFFICER. INDUSTRIAL TRIBUNAL, ROURKELA

Industrial Dispute Case No. 58/97 (C)

Dated, the 1st July, 1998

Present :

Shri R. N. Biswal, LL M.,
(O.S.J.S. Sr. Branch),
Presiding Officer,
Industrial Tribunal,
Rourkela.

BETWEEN

The Management of
Raw Material Division,
SAIL, Rourkela.

.. 1st party

AND

The Secretary,
Rourkela Shramik Sangha,
Purnapani Branch, Purnapani,
Sundergarh

.. 2nd party

Appearance :

For the 1st party.—None

For the 2nd party.—None.

AWARD

The Govt. of India in Ministry of Labour Department in exercise of their power conferred under clause (d) of sub-section (1) and sub-section 2(A) of section 10 of the Industrial Dispute Act, 1947 have referred the following dispute vide reference No. L-26012/11/94 IR (Misc.) dt. 12-1-95 for adjudication.

"Whether the action of the management of Purnapani Limestone & Dolomite Quarry, Raw Material Division, SAIL in not giving incentive benefit from 16-11-92 to 15-1-93 to all the eligible workmen is justified ? If not, to what relief the workmen are entitled to?"

2. The case was fixed on 25-6-98 for hearing. Since neither of the parties appeared before this Tribunal on that date, it can be presumed that, at present there is no dispute between them or they have amicably settled the dispute out side the Court in the mean time. Accordingly No Dispute Award is passed.

R. N. BISWAL, Presiding Officer

नई दिल्ली, 22 सितम्बर, 1998

Mumbai, dated the 17th day of August, 1998

का.प्र. 2018—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुम्बई पोर्ट ट्रस्ट के प्रबन्ध-संव के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण में, 1-मुम्बई के पंचाद को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-9-98 को प्राप्त हुआ था।

[ग. एल-31012/29/92-आई.आर. (विविध),
एल-31012/05/93-आई.आर. (विविध),
एल-31012/03/93-आई.आर. (विविध),
एल-31012/06/93-आई.आर. (विविध),
एल-31012/09/93-आई.आर. (विविध)]
के.वी.बी. उन्नी, डेस्क अधिकारी

New Delhi, the 22nd September, 1998

S.O. 2018.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, No. 1, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bombay Port Trust and their workman, which was received by the Central Government on 22-9-1998.

[No. L-31012/29/92-IR (Misc.),
L-31012/05/93-IR (Misc.),
L-31012/03/93-IR (Misc.),
L-31012/06/93-IR (Misc.),
L-31012/09/93-(Misc.)]

K. V. B. UNNY, Desk Officer.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1 MUMBAI

PRESENT :

Shri Justice C. V. Goverdhan, Presiding Officer.

REF. NO. CGIT—39 OF 1993

REF. NO. CGIT—40 OF 1993

REF. NO. CGIT—41 OF 1993

REF. NO. CGIT—42 OF 1993

REF. NO. CGIT—45 OF 1993

PARTIES :

Employers in relation to the management of
Bombay Port Trust.

AND

Their Workmen.

APPEARANCES :

For the Management : Shri M. B. Anchan,
Advocate.

For the Workman : Shri Meharchandani, Ad-
vocate.

AWARD

1. The Central Government has referred to this Tribunal the following dispute between the employer and the employee in this reference for adjudication.

“Whether the action of the management of the Bombay Port Trust. Bombay in dismissing Shri A. D. Wadwal, Driver and G. S. Rajjuria Mazdoor from services w.e.f. 15-7-1991 is just, proper and legal? If not, to what relief are these workmen entitled to?”

2. In spite of Notices having been served on them, one of the employee, namely Shri A. D. Wadwal, Driver, MMK 1137 in which 125 boxes or piston rings were attempted to be removed from the BPT premises on 17-2-1987, has not appeared in Court and has chosen to remain exparte. The inquiry in this Industrial Dispute is therefore confined only in respect of dispute between employer and the other employee Mr. Gurmukh Sevakaram Rajjuria.

3. The workman in his statement of claim contends briefly as follows :

On 19-2-1987 a F. I. R. was lodged at the Yellow gate police station in No. 85/87 against this workman and another alleging their offences of dacoities. The complainant Gangaram Laxman Jadhav has not disclosed any name in the trial before the Session Court. The workman was found not guilty and was acquitted. The employer had suspended the workman and ordered a departmental enquiry, alleging that the workman has committed misconduct. The Enquiry Officer after an enquiry has held that no charges have been established against this workman. The employer has falsely implicated this workman in a criminal case 197/P of 1987 for offence under sections 380 and 114 of Indian Penal Code 1973. The Additional Chief Metropolitan Magistrate has found the workman not guilty of the offence for which he has been charged and has acquitted him.

4. The workman was suspended from service by Vice-Chairman of the BPT on 04-3-1987. As a Chairman of the B.P.T. he has passed the impugned order of dismissal against the workman after rejecting the findings of the Enquiry Officer. The appeal prepared by the workman to the Chairman in the said order was also rejected by the Chairman. The conciliation proceedings were initiated but it could not resolve this dispute. It is in this circumstances the reference has been made.

5. The Chairman has failed to consider that the employer has admitted in the written statement in the connected I. D. 40 of 1993 that the enquiry was conducted by the Enquiry Officer in a fair and proper manner and his findings are well reasoned, and the Enquiry Officer had observed the principle of Natural Justice. The filing of criminal case against the workman alongwith others, in the

Court of the Additional Chief Metropolitan Magistrate shows the mala fide intention of the employer. The delay in ordering a departmental enquiry namely 14 months of the suspension of the workman is a unfair trade practise. The dismissal order by the Chairman in respect of the Enquiry Officers exonerating the workman from the alleged offence of theft is not proper. The order of dismissal is therefore, improper, illegal, mala fide and prejudicial to the interest of labour and therefore, the same is liable to set aside and the workman may be ordered to be taken back into service with effect from 04-3-1987 with full back wages and other benefits with interest.

6. The employer in their written statement contends briefly as follows :

On 19-2-1987 from 12-A Indira Dock the workman alongwith a Driver of the Lorry and Mazdoors of Dock Department unauthorisedly removed 125 boxes of piston rings valued about Rs. 24750/-. When the Security staff tried to stop the lorry the mazdoors threatened the watchman Shri Jadhav with a knife and 2 of them gave fist blows. The workman was therefore charged under rule 22-B of the BPT rules and regulations for non-schedule staff and for violating the regulation 3(1) of the B.P.T. Employee's (Conduct) Regulations 1976 punishable read with regulation Nos. 12 and 13 of the BPT Employee's (Classifications, Control and Appeal) Regulations 1976 since the reply of the workman was not convincing an inquiry was ordered. The Inquiry Officer found the workman not guilty for the alleged misconduct, but on a careful consideration of the inquiry report the disciplinary authority disagreed with the findings of the Inquiry Officer and has found him guilty on the charges. A show cause notice was therefore issued. The workman submitted his representation after considering the records of the enquiry and his representation and after giving workman a personal hearing he was dismissed from service by an order dated 15-7-91. There was adequate evidence before the Enquiry Officer to establish the involvement of the workman in the organised theft of piston rings and therefore he was found guilty of the charges alleged against him. The findings of the Enquiry Officer was contrary to the evidence on record. The Disciplinary Authority after analysing the evidence before the Enquiry Officer has come to the conclusion that the workman is guilty of the charges alleged against him. Therefore, it is prayed that action of the employer in dismissing the workman Wadhwa and Rajjuriya from service be upheld.

7. The workman in his rejoinder has stated as follows :

That the F.I.R. did not disclose the name of any workmen. The employer is guilty of instituting false criminal case against this workman. The Courts have acquitted him in those cases. The findings of the Enquiry Officer are well reasoned and is based on documentary and oral evidence placed before him. The employer was working with a mala fide intention and he had no intention of taking this workman into service. In order to dismiss the workman from the service the employer has

found some excuse and under the pretext of analysing the evidence tendered before the enquiry this Disciplinary Authority has come to the conclusion that the workman is guilty of the alleged charge. The employer was working under various mind to victimise this workman. The contention that the workman was dismissed after a fair and proper enquiry is not correct. The action of the employer in dismissing the workman is opposed to principle of natural justice and the workman prays that an order directing the employer to take back the workman into service from date of suspension with all back wages with interest may be ordered.

7. The point for consideration in this reference is whether the order of dismissal of the employee Shri A. D. Wadwal, Driver and G. S. Rajjuria, Mazdoor from service w.e.f. 15-7-1991 by the employer is just, proper and legal?

REFERENCE NO. 40 OF 1993

1. The Central Government has referred the following dispute between the BPT and its employee Mr. Dayanand Lande for adjudication by this Court.

"Whether the action of the management of B.P.T. in dismissing the services of Mr. Dynandeo Maruti Lande, Driver CME's Department w.e.f. 15-7-1991 is legal and justified? If not, what relief the workmen concerned is entitled to?"

2. The workman in his statement of claim contends as follows:

On 19th December 1987 a FIR was lodged at the Yellow Gate Police Station under CR No. 85/87 against one A. D. Wadwal and Shri G. S. Rajjuria of having committed offences of decoity at the point of knife alleging theft of 125 boxes of piston rings and other articles. The workman hearing was not mentioned in that F.I.R. on 23-2-87 one Ashok Chavan and Suresh Chavan were identified by G. L. Jadhav. After investigation a complaint was filed and the matter came up before Additional Sessions Judge on 13-12-90. The workman hearing was discharged before framing of the charge itself on the ground that there was no evidence much less prima facie evidence against the workman. Special Public Prosecutor has conceded that there is no prima facie evidence against the workman. The employer had instituted a departmental enquiry on the said alleged theft by framing articles of charge and issuing a statement of imputation of misconduct against the workman. It was alleged that he has violated Regulation 3(1) of the BPT employees Conduct Act 1976. A departmental enquiry was held. The report was also given by the Enquiry Officer, confirming the charges. The BPT Chairman by letter dt. 27-7-90 confirmed a order of suspension against the workman. The workman filed an appeal to the Chairman of the company. The Chairman has disposed it on 15-7-91. The order was passed by Mr. R. K. Bhansali, Deputy Chairman. He himself has passed an order of dismissal on the workman in his capacity as Chairman. It is against the principle of Natural Justice. The workman, therefore, prays to the court to hold the action of the employer as illegal, improper and unjustified. He prays for a order of re-

instatement in service with continuity of service and full back wages.

2. The Employer in his written statement contends briefly as follows:

On 19-2-87 the workman and 5 others had unauthorisedly removed 12 boxes of piston rings approximately valued Rs. 24,750. For removing the said cargo A. C. Wadhiwal and Mr. S. U. Mir had unauthorisedly taken away Lorry No. 1137 belonging to the Chief Engineer Department. When Security staff tried to stop the lorry workman Mr. Shoukat Usman Mir threatened the watchman Mr. Jadhav with knife and Mr. Ashok Chavan and Suresh Chavan assaulted the said watchman by giving first blows. It was about 9.30 a.m. The workman alongwith Ashok Chavan, Suresh Chavan, Keshav Mithal Mathre and B. M. Deshmukh had unauthorisedly removed 168 boxes of piston rings valued at Rs. 33,260 from 12-A have Dock about 16/17-2-1987. The workman was therefore, charge sheeted for the misconduct and violation of BPT rules 22(2)(b) and 3(1) of BPT employees conduct rules, and he is liable to be proceeded against for major penalty under regulation 8 read with regulation Nos. 12 & 13 of the BPT Employees (Classification, Control and Regulations 1976).

3. The enquiry was held and on basis of the Enquiry Officer report the workman was dismissed from service. The workman was working as M.L. Driver at the time of the dismissal. He was under suspension since he was arrested by the police and was detained in police custody w.e.f. 15-4-87. The workman was charge sheeted and he was provided with articles of charges, statement of imputation of misconduct, List of documents, and List of witnesses. His explanation denying the charge was not satisfactory. An enquiry was therefore ordered and the workman was defended by the Secretary of the B.P.T. Employees' Union. The workman was provided with copies of all documents required by him. The Presenting Officer examined 14 witnesses and produced about 34 documents. The witnesses were thoroughly cross-examined by the defence counsel. The Defence side cross examined six witnesses. After hearing both the parties and giving an opportunity to file his written pleas. The Enquiry Officer has come to the conclusion that the workman is guilty of the alleged charges. His findings are well reasoned. He had observed the principles of natural justice. Show cause notices was issued to the workman. After considering his reply, the workman was dismissed from service by an order dt. 15-7-91 by the Chair. The action of the management in dismissing the employee Mr. Dvnadeo Maruti Lande w.e.f. 15-7-91 is legal and justified.

The workman in his reply statement contends briefly as follows:

The workman was found not guilty in the 2 judgments of the Metropolitan Magistrate as well as the Sessions Court. In spite of it, the employer has dismissed him holding him guilty of the charges alongwith mala fide intention. The departmental enquiry was an eyewash and it was ordered to penalise and dismiss the worker and other co-workers in spite of the intimation of the acquittal by the criminal Court. The

workman was not taken in service. The officials of the department who conducted the inquiry were Ex-officials and working officials and they were under the influence and pressure of the employer. The Enquiry Officer has found Shri Gurmukh Raijuria not guilty of the charge levelled against him. Instead of accepting the said finding the employer chose to disregard the said findings for the gave his own verdict regard the said finding and give his own verdict. This shows mala fide intention of the employer. The Enquiry officer has not observed the principle of natural justice while holding the enquiry and his findings are not based on the documentary and oral evidence kept before him. The said finding is perverse and illegal. The order of dismissal by the Chairman dated 15-7-91 is Bad, illegal and Mala fide. An order may be passed directing the employer to take back the workman into service with back wages.

The point for consideration is whether the order of dismissal of the employee is justified and whether the employee is entitled to any relief.

REFERENCE NO 41 of 1993

1. The Central Government has referred the following dispute between employer BPT and employee Shri Suresh Chavan for adjudication, in this Court.

"Whether the management of the Bombay Port in dismissing the services of Mr. Suresh Bhikaji Chavan, Mazdoor, Docks Department with effect from 15-7-1991 is legal and justified? If not, what relief the workman is entitled to?"

2. The workman in his written statement contends as follows:

The claim statement of the workman in this case is similar to the claim statement of the worker in COIT-40 of 1993 except for his employment. Here he is a mazdoor while the employee in CGIT-40 is a Driver. Therefore, the claim statement is not repeated.

3. In the written statement the employer has stated the facts as stated by them in CGIT-40 of 1993 and they are also not repeated. Similarly, in the reply statement also the worker has stated what all the worker in CGIT-40 has stated earlier and hence it is also not repeated.

4. The points for consideration in this case is also whether the order of dismissal of the employee Mr. Suresh Bhikaji Chavan is legal and justified?

REFERENCE NO. CGIT-42 OF 1993.

1. The Central Government has referred to this Tribunal the following dispute between the employer B.P.T. and the employee Ashok Chavan for adjudication by this Court.

"Whether the action of the management of B.P.T. in dismissing the services of Mr. Ashok Hari Chavan, Mazdoor, Docks Deptt., with effect from 20-5-1991 is legal and justified? If not, what relief the workman is entitled to?"

2. The claim statement of the worker is similar to the claim statement filed by the worker in CGIT-40 and 41 of 1993 and hence they are not repeated.

3. In the written statement, the employer has stated the same facts as said by them in CGIT-40 and 41 of 1993. In addition the employer states as follows:

On 17-2-1987 at about 11.00 a.m. Shri M. C. Naik, Asstt. Shed Superintendent noticed that at Shed No. 17 some empty cartoons were on the north side of 'F' Bay. On checking he found one ballet baring marks "A GIL 4-91 31|1-103 Bombay" with torn corner lying on lift No. 2. He informed the police constable Shri Vijay Deshmukh of India Dock and asked him to inform the same to Yellow Gate Police Station. On further checking the shed records, Shri Naik found that the Ballet was part of the consignment under item 18 of IGM No. 260 of vessel "BOIZENBURG". It was found that one cartoon contained 100 roll boxes and the ballet was containing about 6000 rolls out of which 2011 rolls were missing. In this connection, the police arrested Ashok Chavan, Gurmukh Devakran Rajjuria, Harishchandra Tukaram Chag, Ramesh Rajaram Jadhav and O.P. Masavkar. Shri Rajjuria has stated before the Panchas that he alongwith Ashok Chavan, Kashav Mahre and Ramesh Jadhav had stolen him rolls on 15-2-87 from Shed No. 17 and volunteered to show the shop and person where they have stolen the same and sold some film rolls. He also led the police and Panchas to Shop No. 4, Mahalaxmi Steel Emporium, 84, Bora Bazar, Ruby Chambers and pointed out a person by name Shri Roshanlal Galelal Jain. Roshanlal Jain produced one gunny bag containing 7 boxes, each box containing 100 film rolls. They were seized under panchanamas.

3. On 27-6-87 G. B. Masavkar has stated in the presence of Panchas that he and others have stolen six bags containing film rolls. He had led the police and Panchas to room No. 13, Building No. 4|16, 1st floor, M. K. Amin Marg and pointed out a person by name Gopalsinha Sohansinha Rajput from whom big card board box containing 14 packets each containing 10 film rolls and 5 card board boxes containing 100 film rolls were recovered from him. Since the workman was involved in the theft case alongwith six others the police filed a criminal case against them. B.P.T. also issued charge sheets to all these 7 workmen for misconduct punishable under various Regulations.

4. Other averments in the written statement are similar to the averment made by the employer in CGIT-40 and 41 of 1993 and hence they are not repeated.

5. The reply filed by the workman is similar to the reply statement filed by the workman in CGIT 40 & 41 of 1993 and hence it is also not repeated. The points for consideration in this case is whether the order of dismissal of the workman by the Chairman of the BPT is just and proper and whether the workman is entitled to any relief?

REFERENCE NO. CGIT-45 OF 1993

1. The Central Government has referred the following dispute between the B.P.T. and its employee Keshav Vithal Mhatre for adjudication : 2605 GI/98--5.

"Whether the action of the management of Bombay Port Trust in dismissing the services of Mr. Keshav Vithal Mhatre, Mazdoor, Docks Deptt. with effect from 15-7-91 is legal and justified? If not, what relief the workman concerned is entitled to?"

2. The averments in the claim statement of the worker Mathre is similar to the claim statement filed by the workman in CGIT 40-41-42 of 1993. He was also charge sheeted alongwith the workmen. Hence, it is also not repeated.

3. In the written statement the BPT has also stated similar to the averment of the written statement filed by them in the CGIT-42 of 1993 and hence it is not repeated here.

4. The reply statement of the workman is also similar to the written statement filed by the workman in CGIT-42 of 1993 and hence it is also not repeated.

5. The point for consideration is whether the order of dismissal of the workman by BPT is just and proper and whether the workman is entitled to any relief.

6. Since the dispute between employer BPT and their workmen in all these 5 cases is with regard to their dismissal on the same charges in respect of the same occurrence evidence has been recorded commonly and arguments were also heard commonly before the Inquiry Officer. No evidence has been recorded in this Court. Arguments were heard commonly in all these disputes. Therefore, common award is passed by consent of both the parties.

7. Since these disputes arise out of two instance of theft and removal of stolen articles belonging to the employer, the charge sheeted employees have filed separate affidavits during the inquiry in this Court. Subsequently, they have withdrawn the affidavits filed by them on 4-9-96 and the entire proceedings proceeded only upon the basis of the domestic enquiry, findings of the Enquiry Office and the consequent punishment imposed on employees. Even at the outset, I wish to observe that one of the charge sheeted employees Shri A. D. Wadhwa, Driver has not prosecuted the dispute before this Court. The other charge sheeted employees have been represented by Advocates. The reference with regard to the dispute between Shri A. D. Wadhwa and his employer, the B.P.T. is therefore to be dismissed as not prosecuted in this Tribunal.

8. The learned Advocate appearing for the workman has conceded at the time of the arguments that even though the workmen have alleged that the departmental enquiry has not been conducted properly, he is not pressing this point and it can be taken that the workmen are not challenging the manner of the conduct of the domestic enquiry. It is therefore, held that the domestic enquiry has been conducted fairly and properly.

9. The learned Advocate for the workmen has contended that the Enquiry Officer as well as the Authority has not considered the fact of discharge of some of the charge sheeted employees and acquittal of some of them by Criminal Court. It is

necessary to observe at this juncture that the entire proceedings consists of two instances. The first one is one in which charge sheeted employees Ashok Chavan, S. P. Chavan and another employee by name K. V. Mathre is said to have committed theft of piston rings in the premises of the Port Trust on the night of 16th or 17th February 1987 and with the help of another Lorry Driver by name Mr. Lande removed them outside the Port Trust.

10. The second instance is dt. 19-2-1987 in which the charge sheeted employee A. D. Wadwal as Driver of Lorry MMK 1137 attempted to remove 4 gunny bags containing piston rings and when the Security Watchman of the B.P.T. attempted to stop the Lorry on information, the lorry did not stop at the gate and therefore, the watchman Mr. Jadhav who have been examined as PW-5 before the Enquiry Officer climbed over the lorry on the left hand side where the cleaner used to sit and the charge sheeted employees namely A. H. Chavan, K. V. Mathre and S. B. Chavan, who were sitting behind the lorry driver gave him blows with fist and there was also another charge sheeted employee G. S. Rajjuria sitting with them. According to the Prosecution case when Mr. Jadhav raised an alarm it was heard by the other watchman Mr. S. R. Abdullah who was examined as PW-1, Mr. Ramnaan Thorat, Head Watchman, was also in the Gate and they also attempted to stop the vehicle by Mr. Abdullah climbing on the Driver side of the lorry and getting hold of the steering wheel and Ramnana Thorat chasing the lorry. It is also the prosecution case that at this juncture the Police Officer Mr. A. B. Dhairyawan who was going to his Chowki in his jeep had seen the watchman Abdullah hanging on the Driver side and sensing trouble, stopped the jeep in front of the lorry and the lorry was stopped.

11. It is the further case of the prosecution that when the lorry was stopped all the persons sitting behind the driver got down and attempted to run away and Mr. Dhairyawan PW-11 before the Enquiry Officer caught hold of Rajjuria while the Driver was caught by the Watchman. The persons who were sitting behind the Driver were identified by the Watchman Jadhav, Abdullah and Thorat. Mr. Abdullah and Jadhav also identified Mr. Shaukat Mir another Lorry Driver. Ashok Chavan and Suresh Chavan before the Magistrate who conducted the identification parade at the request of the Investigating Officer, Mr. Walishetty. The prosecution has further contended that when the Lorry was stopped the S. I. of Police of the Yellow Gate Police station came there, took up investigation and recovered four gunny bags containing 125 piston rings from the lorry which was attempted to be taken up by the Driver. The Investigation in this case has been taken over by the Inspector Shetty and according to his evidence he had arrested, Mr. Ashok Chavan and in pursuance of a confession statement given by him, he has recovered 153 sets of piston rings from the persons to whom he had shown and against whom also charge sheet has been filed in the Criminal Court. Mr. Shetty has also stated that when he arrested the charge sheeted employee Mr. K. V. Mhatre, he also gave a confession statement and produced 15 sets of piston rings from his house.

12. As far as the identification of the property is concerned the prosecution case is that when the Clearing Agent of M/s. A.T.C. (Clearing & Shipping) Pvt. Ltd to whom the properties belongs, came to take possession of the properties, one packet was found missing and he has reported the same to PW 19 Tulsidas, Mukund Tikam Shed Superintendent. The Shed Superintendent has verified the records namely Landing report and having found that one packet was missing, he has reported the matter to his superior, namely Assistant Manager. When these two people PW-10 Shri Sahadeo and Mr. Tikam (PW-9) went to the police to give the complaint they came to know that the police have already seized certain gunny bags containing piston rings. Mr. Thukrul has identified the piston rings which were recovered by the Police from the lorry as belonging to them since they tallied with the invoice kept by him. The identity of the property is also thus proved by the Enquiry Officer. On the basis of the investigation conducted by him, Mr. Wali Shetty has preferred two complaints: one before the Metropolitan Magistrate and another before the Session Judge with regard to the seizures of the stolen articles from the lorry and as well as Mr. Ashok Chavan and Mr. K. V. Mhatre.

13. The Defence case that on the same set of facts 2 criminal cases were prosecuted against the charge sheeted employees and the fact that the criminal cases as well as the domestic enquiry were conducted simultaneously was not in consonance with the principals of natural justice. The Supreme Court in the decision reported in AIR 1988 Supreme Court Page 2118 has observed as follows :

"While there could be no legal bar for simultaneous proceeding being taken against the delinquent employee against whom disciplinary proceedings were initiated, but there may be cases where it would be appropriate to defer disciplinary proceedings awaiting disposal of the criminal case. In the latter class of cases it would be open to the delinquent employee to seek such an order of stay or injunction from the Court. Whether in the facts and circumstances of a particular case there should or should not be such simultaneity of the proceedings would then receive judicial consideration and the Court will decide in the given circumstances of a particular case as to whether the disciplinary proceedings should be interdicted pending criminal trial. It is neither possible nor advisable to evolve a hard and fast straight jacket formula valid for all cases and of general application without regard to the particularities of the individual situation".

14. Notwithstanding the above decision it may be noted that the charge sheeted employee in I.D. 40 of 1993 namely Mr. A. Maruti Lande and others have moved the Bombay High Court for a stay. It is stated in the written statement of the employer in I.D. 40 of 1993 that the Bombay High Court by its order dt. 28-4-89 has dismissed the petition for stay with an observation that the learned judges are more than satisfied that this is not a case where the relief claimed by the petitioners for staying the departmental proceedings should be granted. This recital in the written statement of the employer is not disputed. Therefore, I am of opinion that there is no merits in the contention of the workman that the Disciplinary Authority should not have conducted the enquiry as there were criminal cases pending against the charge sheeted employees before the Metropolitan Magistrate and Additional Session Judge, Mumbai.

15. The Learned Advocate for workmen has also argued that the Disciplinary Authority has not considered the discharge and acquittal of the charge sheeted employees in the Criminal Court. It is to be noted that charge sheeted employees Mr. K. V. Mhatre, Mr. S. B. Chavan and Mr. Jodhav were discharged by the Metropolitan Magistrate on 11-7-1988. Mr. K. V. Mhatre, D.M. Lande and B.M. Deshmukh were discharged by the Additional Session Judge, Mumbai on 13-12-90. The Metropolitan Magistrate has acquitted the charge sheeted employees Mr. Ashok Chavan, Mr. Rajjuria and 3 others. Shri H. T. Chag on 23-10-89. Similarly, Ashok Chavan, Mr. S. B. Chavan, Mr. Rajjuria, Mr. A. D. Wadwal, Mr. Shaukat Usman Mir, charge sheeted employees and Ramsingh Jagato Singh Rajput were acquitted by the Additional Session Judge on 13-10-91. The Enquiry Officer has submitted this report to the Disciplinary Authority on 31-10-89. The discharge made by the Metropolitan Magistrate on 11-7-1988 and acquittal by the Metropolitan Magistrate on 23-10-89 were prior to the report of the Enquiry Officer. The acquittal of the accused before him, by the Metropolitan Magistrate, the discharge as well as acquittal of the accused before him by the Additional Session Judge are subsequent to the report of the Enquiry Officer dt. 3-10-89. Therefore, the Enquiry Officer ought to have considered the discharge and acquittal made by the Criminal Court prior to his submitting the report. In the decision reported in 1994 Maharashtra Law Journal 1477 Jaywant Bhaskar Sawant vs. Board of Trustees of the Port of Bombay and others it has been held that :

“Where the Criminal Court passes an order of honourable acquittal, the departmental enquiry can be continued but the Enquiry Officer or Disciplinary Authority is duty bound to attach reasonable weightage to the findings recorded at

the Criminal trial. If it is shown that the order of honourable acquittal has been ignored and no weightage is attached to such order, the Writ Court would be bound to quash the order of Disciplinary Authority in an appropriate case”.

16. In the present case the Disciplinary Authority has not referred anything about the discharge or acquittal made by the Additional Session Judge as well as the Metropolitan Magistrate in respect of the offence said to have been committed by the accused before them and who were incidentally charge sheeted employees in the domestic enquiry. The scope of the two proceedings over the original court and in the domestic enquiry are no doubt different. But the reasoning of the Criminal Court in ordering the acquittal ought to have been considered and due weightage should have been given by the Disciplinary Authority before passing the impugned order of dismissal. It may not be out of context to observe that it has been held in the decision reported in AIR 1961 Madras 305 that :

“The action of the management in dismissing the workmen on the ground of misconduct in assaulting an Officer of the management even after the workman has been acquitted of the charge by a competent Criminal Court must be held to be not bonafide.”

When we apply this ratio to the case on hand, the action of the disciplinary authority in dismissing the charge sheeted employees who were either discharged or acquitted in Criminal Court for the same misconduct said to have been committed by them can't be said to be bonafide.

17. The Learned Advocate for the workmen has argued that knife said to have been kept in the Abdomen region of Jadhav has not been seized and it was not mentioned in the F.I.R. before the Criminal Court also and yet the Enquiry Officer has given a finding that a knife has been kept in the Abdomen region of Jadhav. The affidavit of proof of Mr. Jadhav itself shows that he was not specifically stated that a knife has been kept in the Abdomen region. Non-mentioning of the knife in the FIR and its non-seizure by the investigating officer, therefore, can't be sufficient to hold that the finding of the Enquiry Officer is bad.

18. The Learned counsel appearing for the workmen has also argued that the Panchas have not been examined to speak to the seizures of the bundles in the lorry and from the persons to whom Mr. Ashok Chavan and Mr. Mhatre were said to have sold the stolen articles and therefore the finding of the Enquiry Officer that the seizure have been proved is not correct. The Enquiry Officer has made a simple observation that it is very common that the Panchas did not stick to their version during the trial of the case and therefore, the Police Officers evidence is sufficient to prove the seizures. This observation of the Enquiry Officer

in his report can't be given much credence since it is the duty of the Prosecution to prove the seizures beyond doubt by examining the Panch. Therefore, the finding of the Enquiry Officer on that aspect cannot be said to be a satisfactory one. As pointed out earlier by me the Enquiry Officer has not considered the discharge as well as acquittal of some of the accused by the Metropolitan Magistrate. He cannot be expected to consider the discharge and acquittal by Additional Session Judge since they are after the findings of the Enquiry Officer. The Disciplinary Authority who has passed the order of dismissal has also not considered the discharge and acquittal of some of the charge sheeted employees and therefore the decision of the said authority to punish the employees is not in consonance and is against the principle of natural justice.

19. The order of dismissal has been passed by the Chairman of the B.P.T. on the charge sheeted employees. It is to be noted that the charge sheeted employees in I.D. 42 was dismissed on 20-5-1991 by the Vice Chairman. The employee has preferred an appeal and this appeal was also dismissed by the Chairman on 19-9-91. Similarly the charge sheeted employee on I.D. 45 was dismissed by the Vice Chairman and the appeal preferred by him was dismissed by the Chairman on 15-7-91, so also the order of proposing dismissal of the employee in I.D. 41 who was under suspension was proposed by the Vice-Chairman and subsequently he was dismissed by the Chairman on 15-7-91. So also the charge sheeted employee in I.D. 40 of 1993 was ordered to be dismissed by the Vice-Chairman and appeal preferred by him was dismissed by the Chairman. As per the schedule BPT Employees (Classification, Control and Appeal) Regulations 1976 is concerned the Authority competent to impose penalties with regard to the charge sheeted employees is the Deputy Chairman and the Appellate Authority to whom appeal is to be preferred is the Chairman of the B.P.T. Regulation 22 provides that

“Appellate Authorities—An employee, including a person who has ceased to be in the Board's service, may prefer an appeal against—

- (i) an order of suspension, to the authority to which the authority which made or deemed to have made the order is immediately subordinate;
- (ii) an order imposing any of the penalties specified in regulation 8, to the authority specified in this behalf in the Schedule;
- (iii) all or any of the orders specified in clauses (iii) and (iv) of regulation to the authority to which an appeal against an order imposing upon him the penalty of dismissal would lie.

The order imposing any other penalties specified in Regulation 8 to 11 enables a person to prefer an appeal to the Authority to which an appeal against an order imposing upon the penalty of dismissal would lie. The order of suspension as well as an order requiring to show cause as to why an order of dismissal should not be passed are also orders against which appeal can be preferred. Therefore, even though the workman in I.D. 41 has been asked to show cause why an order of dismissal should not be passed against him, he is also entitled to prefer an appeal to the Chairman.

Regulation 23 provides the Appellate Authority in special circumstances.

“23. Appellate Authorities in special circumstances—Notwithstanding anything contained in regulation 22,

- (i) an appeal against an order in common proceeding shall lie to the authority to which the authority functioning as the disciplinary authority is immediately subordinate.
- (ii) where the person who made the order appealed against becomes by virtue of his subsequent appointment as the Chairman, an appeal against such order shall lie to the Central Government and the Central Government in relation to that appeal shall be deemed to be the appellate authority for the purpose of this regulation.”

20. In the dispute between the employer and the employees before us the order of dismissal against the charge sheeted employees I.D. 42, I.D. 45, and I.D. 40 and also I.D. 39 of 1993 and also the order to show cause why an order of dismissal should not be passed on the charge sheeted employees in 41 of 1993 who was under suspension were passed by the Vice-Chairman of the BPT in his capacity as the Disciplinary Authority. But when the above orders were challenged and an appeal is filed against the said order, the Vice-Chairman who has become by virtue of his subsequent appointment as Chairman has heard the appeals and has dismissed both appeals. It is in violation of Regulation 23 which specifically provides that the appeal shall lie only to the Central Government and the Central Government in relation to that appeal shall be deemed to be the appellate authority where the person who made the order appealed against becomes by virtue of his subsequent appointment as the Chairman.

21. In these cases since the orders which are appealed against were passed by the Vice-Chairman and the Vice-Chairman who has by virtue of his subsequent appointment as Chairman has passed orders confirming the earlier order by himself, it is in contravention of Regulation 23 which is mandatory in nature. Therefore, on this ground also the order passed by the employer cannot be said to be legal and proper.

22. As regards the charge against Raijuria is concerned the Enquiry Officer has observed that only in order to be not getting connected with the treable. Raijuria has run away from the lorry and he has no part to play with. But even this charge sheeted employee has supported prosecution version with regard to the chasing of the lorry in which he was travelling by the 3 guards. His version that he was in the lorry in order to go to the hospital has been accepted by the Enquiry Officer. But the Disciplinary Authority who is competent to re-assess the evidence before the Enquiry Officer has not accepted the version of the charge sheeted employee and I am of the opinion that the finding given by the Enquiry Officer has been rightly rejected by the Disciplinary Authority and it leads us to the conclusion that the charges against him also stands proved.

23. An analysis of the materials placed before this Court shows that the charge sheeted employees have no doubt committed the misconduct alleged against them and yet the orders passed against them cannot be sustained on technical grounds namely non-examination of panchas, Enquiry Officer not considering the order of discharge passed by the Criminal Court and the punishment ordered by the Chairman is in violation of Regulation 23. Therefore, I am of opinion that even though the workmen in all these five cases except Wadval, one of the employee in I. D. 39 of 1993 are entitled to an order of re-instatement they are not entitled to an order granting back wages to them.

ORDER

I hold that the order of dismissal passed by the B.P.T. against the workman Mr. Raijuria in I.D. 39 of 1993, Shri D. N. Lande, workman in I.D. 40 of 1993, Shri S. B. Chavan, Workman, I.D. 41 of 1993, Shri Ashok Chavan, worker in I.D. 42 of 1993 and Shri Keshav Vithal Mahatre employee in I.D. 45 are liable to be set aside and these workmen are entitled to orders of re-instatement without back wages. The reference with regard to the dispute between the workman Shri A. B. Wadval and his employer is dismissed as not prosecuted.

Award passed accordingly.

C. V. GOVARDHAN, Presiding Officer

नई दिल्ली, 25 सितम्बर, 1998

का.आ. 2019.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार खादी एवं विलज इण्डस्ट्रियल कमीशन, लखनऊ के प्रवक्ता तंत्र के संयुक्त नियोजकों और उनके कर्मचारों के बीच, अनुवृत्त में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कासपुर के पंचाद को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-9-98 को प्राप्त हुआ था।

[सं. एल-42012/4/97-आईआर (डीयू)]

के.वी.बी. उन्नी, डेस्क अधिकारी

New Delhi, the 25th September, 1998

S.O. 2019.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Khadi and Village Industrial Commission, Lucknow and their workman, which was received by the Central Government on the 25-9-98.

[No. L-42012/4/97-IR (DU)]

K.V.B. UNNY, Desk Officer,

ANNEXURE

BEFORE SHRI B. K. SRIVASTAVA PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT DEOKI PALACE ROAD, FANDU NAGAR, KANPUR

Industrial Dispute No. 219 of 1997

In the matter of dispute between :

Manoj Kumar Pant S/o Shri Prem Ballabh Pant
Resident of A-41, Kurmanchal Nagar
P.O. Indira Nagar Lucknow.

AND

The Director, (State Office)
KVIC Indira Place
Indira Nagar Lucknow-226001.

APPEARANCE :

Shri A. K. Gupta for the workman

Shri S. K. Srivastava for the Management.

AWARD

1. Central Government Ministry of Labour New Delhi vide its Notification No. L-42012/4/97-IR(DU) dated 27-10-97 has referred the following dispute for adjudication to this Tribunal :

Whether the action of the management of Khadi and Village Industries Commission, Lucknow is justified to orally termination the service of Shri Manoj Kumar Pant workman w.e.f. 3-6-95 ? If not, he is entitled to what relief ?

2. There is no dispute that the concerned workman Manoj Kumar Pant was working with the opposite Party KVIC from 20-9-93. He was removed from service w.e.f. 30-6-95. On representation he has again been taken in service from 24-11-97.

3. In the claim statement the concerned workman has given the above details but has not given the grounds on the basis of which termination order dated 3-6-95 is alleged bad in law.

4. The opposite party has filed reply in which the facts as given in the claim statement has not been disputed.

5. In the rejoinder nothing new has been alleged.

6. The concerned workman Manoj Kumar Pant has examined himself. It is well known law that termination of workman is bad if it is done in breach of provision of Section 25-F, 25-G and 25-H I. D. Act, or is based on defective enquiry report. None of these grounds have been disclosed in the claim statement. Even in the evidence the concerned workman has not said anything in this regard. Thus virtually it is a case of no evidence.

7. Hence my award is that termination of concerned workman is not bad and he is not entitled for any relief.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 25 सितम्बर, 1998

का.प्र. 2020.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कैंटीन स्टोर्स, डिपार्टमेंट, जबलपुर, के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबन्ध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-9-98 को प्राप्त हुआ था।

[सं. एल-14012/79/91-प्रार्.प्रार. (बीयू.)]

के.वी.बी. उन्नी, डेस्क अधिकारी

New Delhi, the 25th September, 1998

S.O. 2020.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Canteen Stores Deptt., Jabalpur and their workman, which was received by the Central Government on the 25-9-98.

[No. L-14012/79/91-IR(DU)]

K. V. B. UNNY, Desk Officer

अनुबन्ध

केन्द्रीय औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर (म.प्र.)

डी.एन. वी.शिल्ट

पीठासीन अधिकारी

प्र.कं. सीजीआईटी/एलसी-प्रार (163)/91

श्री सुनील कुमार मेहता,
आत्मज : श्री किशनलाल मेहरा,
प्लॉट नं. 242, त्रिमूर्ति नगर,
बमोह रोड, जबलपुर म.प्र.

प्राची

विरुद्ध

प्रबन्धक,
कैंटीन स्टोर्स डिपार्टमेंट,
15, राबर्ट बैरक कैंट,
जबलपुर म.प्र.

प्रतिप्राची

अवधि

दिनांक 10-09-98

1. भारत सरकार श्रम संचालन, नई दिल्ली ने अपने आदेश सं. एल.-14012/12/79/91-प्रार्.प्रार. (बीयू.) दिनांक 30-09-91 के द्वारा निम्नलिखित विवाद निराकरण हेतु इस अधिकरण को प्रेषित किया है :—

अनुसूची

“Whether the action of the management of Canteen Stores Dept., Jabalpur in terminating the services of Shri Sunil Kumar Mehra, S/o. Shri Kishan Lal Mehra, Ex-daily wage LDC and also in not giving him an opportunity to appear in the examination for regularisation in the same post, is justified? If not, what relief he is entitled to and from what date?”

2. श्रमिक के अनुसार उसकी नियुक्ति निम्न श्रेणी लिपिक के पद पर कैंटीन स्टोर्स डिपार्टमेंट के जबलपुर डिपो में दैनिक वेतन भोगी कर्मचारी के रूप में वर्ष 83 में हुई। श्रमिक स्थायी पद पर काम कर रहा था। और वही कार्य कर रहा था जो स्थायी निम्न श्रेणी लिपिक करते हैं। श्रमिक ने 240 दिन से ज्यादा लगातार काम एक वर्ष में किया है। श्रमिक की सेवाएँ प्रकरण ही समाप्त कर दी गयी हैं। श्रमिक ने लगातार काम किया इस कारण वह स्थायी कर्मचारी हो गया। श्रमिक हायर-सेकेंडरी परीक्षा पास है और अंग्रेजी टाईपिंग भी ओपाल बोर्ड से पास है। श्रमिक ने लगातार 5 साल तक अपने पद पर काम किया है। अक्टूबर 88 में श्रमिक ने स्थायी पद हेतु परीक्षा दी। श्रमिक की सेवाएं मौखिक रूप से समाप्त की गयी हैं। यूनियन और प्रबन्धन के बीच द्विपक्षीय समझौता 8-8-90 को हुआ, जिसके अनुसार श्रमिक को दूसरा अवसर विभागीय परीक्षा में बैठने का मिलता है। इसका पालन नहीं किया गया है। श्रमिक चाहता है कि यह घोषणा की जाये कि उसकी सेवाएँ अवैधानिक रूप से समाप्त की गयी हैं। श्रमिक को सेवा समाप्ति की दिनांक से पुनः सेवा प्राप्त होने तक नियमों के अनुसार वेतन और भत्ते दिलाये जायें।

3. प्रबन्धन के अनुसार श्रमिक को दैनिक वेतन भोगी कर्मचारी के रूप में निम्न श्रेणी लिपिक का पद दिया गया था। श्रमिक औद्योगिक विवाद अधिनियम के अंतर्गत औद्योगिक कर्मचारी नहीं है। श्रमिक को नियुक्ति नियमों के विपरीत दी गयी थी। इस कारण उनको सेवा में रखने का अधिकार नहीं है। कैंटीन स्टोर्स डिपार्टमेंट केन्द्रीय शासन का सावरन फंक्शन है। श्रमिक को 11-10-88 को विभागीय परीक्षा में बैठने का अवसर दिया गया था। इस परीक्षा में श्रमिक पास नहीं हुआ, इस कारण उसे सेवा से पृथक् किया गया। प्रबन्धन चाहता है कि श्रमिक को पुनर्नियुक्ति न दी जाये।

4. श्रमिक ने पहले केन्द्रीय प्रशासनिक अधिकरण, जबलपुर बेंच में याचिका प्रस्तुत की थी। यह याचिका शो.ए. 322/87 है। इस याचिका में निर्णय दि. 28-07-88 को पारित हुआ। इसमें केन्द्रीय प्रशासनिक अधिकरण ने श्रमिक को निर्देश दिये कि वह प्रकरण का निराकरण इस न्यायालय से कराये। इस निर्देश के पालन में श्रमिक ने आवेदन किया, जिसे भारत सरकार ने इस न्यायालय को निराकरण हेतु भेजा।

5. कैंटीन स्टोर्स के डिपार्टमेंट कर्मचारी औद्योगिक कर्मचारी है या नहीं यह विवाद का प्रमुख बिन्दु है। धारा 2 (जे) औद्योगिक विवाद अधिनियम में इंडस्ट्री की परिभाषा दी गयी है। इसमें यह उल्लेख है कि जहाँ पर श्रमिक वस्तुओं के वितरण के संबंध में कार्य करता है वहाँ संस्थान इंडस्ट्री है। इस संबंध में बंगलौर वाटर सप्लाई एंड सिविलियन विरुद्ध ए. राजप्पा और अन्य का निर्णय जो 1978 एस सी सी (एल एंड एस) 215 में मूद्रित है, अवलोकनीय है। उच्चतम न्यायालय ने यह प्रतिपादित किया है कि वह संस्थान जो प्रबन्धन और श्रमिक के सहयोग से उत्पादन करता है और इस उत्पादन का लाभ समाज की आवश्यकता और हठता की पूर्ति करते हैं, वहाँ इस प्रकार का संस्थान इंडस्ट्री है। केन्द्रीय शासन के ऐसे विभाग जिनका संबंध सावरन फंक्शन से है इनमें अगर उत्पादन होता है।

और इस का लाभ समाज को मिलना है तो वे इंडस्ट्री की परिभाषा में आयेंगे। उच्चतम न्यायालय में इस निर्णय में एम.ई.एस को इंडस्ट्री माना है।

8. सिक्यूरिटी पेपर मिल को भी उच्चतम न्यायालय ने धारा-2(जे) औद्योगिक विवाद अधिनियम अन्तर्गत इंडस्ट्री माना है। इस संबंध में सिक्यूरिटी पेपर मिल विरुद्ध हरी शंकर नामदेव और अन्य का प्रकरण जो 1980 (2) एल.एल.जे.—61 में मुद्रित है, विचारणीय है। ऊपर लिखी धिक्कना का निष्कर्ष यह है कि कैंटीन स्टोर्स डिपार्टमेंट धारा-2(जे) औद्योगिक विवाद अधिनियम के अंतर्गत इंडस्ट्री है और वर्तमान रिफरेंस इस न्यायालय में चलने योग्य है।

7. प्रबंधन को ओर से श्री सुनील कुमार मेहरा का शपथ पत्र दिया गया है। इन्होंने ने शपथ पत्र के प्रति परिष्करण की कंडिका-1 में कहा है कि श्रमिक की नियुक्ति स्वीकृत पद के विरुद्ध की गयी थी। कंडिका-2 में कहा गया है कि श्रमिक ने 18-11-83 से 14-2-89 तक लगातार कार्य किया है। श्रमिक की सेवा समाप्ति फरवरी 89 में बिना किसी लिखित आदेश के की गयी। कंडिका-3 में कहा गया है कि श्रमिक को दूसरा अवसर विभागीय परीक्षा पास करने का नहीं दिया गया। यह भी स्वीकार किया है कि द्विपक्षीय समझौते के अनुसार श्रमिक को दूसरा मौका टेस्ट पास करने को देना आवश्यक था और यह नहीं दिया गया। इस प्रकार यह तथ्य सिद्ध है।

8. कैंटीन स्टोर्स डिपार्टमेंट में स्थायी पद था। इस पद पर श्रमिक दैनिक वेतनभोगी कर्मचारी के रूप में लगातार साढ़े पांच साल तक कार्यरत रहा। उसकी सेवा समाप्ति मौखिक रूप से की गयी। उसे द्विपक्षीय समझौता के विपरीत दूसरी बार विभागीय परीक्षा नहीं देने दिया गया। सेवा समाप्ति से पूर्व उसे नोटिस नहीं दिया गया और छंटनी मुआवजा भी नहीं दिया गया।

9. जब कोई भी संस्थान किसी श्रमिक से 6 वर्ष तक कार्य लेता है और उसके पास स्थायी पद है तो इस कर्मचारी को इस पद पर स्थायी नहीं करना उस श्रमिक के साथ घोर अन्याय है। प्रबंधन को इस प्रकार की नियुक्ति देने से पहले देख लेना चाहिए था कि जिस श्रमिक को वे रखने जा रहे हैं, उसके जीवन-यापन का समुचित प्रबंध है या नहीं। प्रबंधक यह तर्क देकर अपनी अकर्मण्यता और अक्षमता को ढक नहीं सकती कि श्रमिक की नियुक्ति अवैधानिक थी। आज जबकि श्रमिक ओवर एज हो गया है और किसी अन्य पद को पाने के लिये सक्षम नहीं है तब प्रबंधन की अयोग्यता उसका जीवन नष्ट कर देगी। न्यायिक प्रक्रिया इस प्रकार के कृत्य को माफ नहीं कर सकती।

10. श्रमिक ने एक वर्ष में लगातार 240 दिन से ज्यादा काम किया है। यह कार्य करीब 6 वर्ष तक किया है। ऐसी स्थिति में उसे बिना नोटिस और छंटनी मुआवजा दिये सेवा से पृथक नहीं किया जा सकता। प्रबंधन की सेवा से पृथक करने की निर्णय अवैधानिक है और निरस्त होने योग्य है।

11. अवार्ड दिया जाता है कि फरवरी, 89 में श्रमिक को सेवा से पृथक करने का आदेश अवैधानिक है। श्रमिक लगातार सेवा में माना जायेगा। उसे नियम के अनुसार निम्न श्रेणी लिपिक का वेतन और भत्ते देय होंगे। अवार्ड मुद्रित होने के तीन माह के अन्दर श्रमिक को सम्पूर्ण भुगतान कर दिया जाय, अन्यथा 12 प्रतिशत प्रतिवर्ष की दर से श्रमिक ब्याज पाने का अधिकारी होगा। दोनों पक्ष इस प्रकरण का अपना-अपना व्यय वहन करें।

12. अवार्ड प्रतियां नियमानुसार भारत सरकार श्रम मंत्रालय को प्रेषित की जाती हैं।

डी०एन० दीक्षित, पीठासीन अधिकारी

नई दिल्ली, 25 सितम्बर, 1998

का०आ० 2021:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कैंटीन स्टोर्स डिपार्टमेंट जबलपुर के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारियों के बीच, अनुबन्ध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय-सरकार को 25-9-98 को प्राप्त हुआ था।

[सं० एल-14012/80/91आई०आर०(डी०यू०)]
के०वी०बी० उण्णी, डेस्क अधिकारी

New Delhi, the 25th September, 1998

S.O. 2021.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Canteen Stores Deptt., Jabalpur and their workman, which was received by the Central Government on 25-9-1998.

[No. L-14012/80/91-IR(DU)]

K. V. B. UNNY, Desk Officer

अनुबंध

केन्द्रीय औद्योगिक अधिकरण एवं श्रम न्यायालय,
जबलपुर(म.प्र.)

डी.एन. दीक्षित

पीठासीन अधिकारी

प्र.क्र. सीआईटी/एलसी-आर(164)/91

श्री रामाराव,

आश्रमज: स्व. श्री वेकेन्ना,

विक्रम फौजरी मस्जिद के पास

विक्रम स्टेट,

द्वारा: श्री विवेश नायडू

कोर्ट रीडर, मिडिल कोर्ट,

जबलपुर, म.प्र.

—प्राप्ति

विरुद्ध :

प्रबंधक,
केन्टीन स्टोर्स डिपार्टमेंट,
15, राबर्ट बैरक कैंट,
जबलपुर, म.प्र.

—प्रतिप्राप्ति

अवाह

दिनांक : 10-09-98

1. भारत सरकार श्रम मंत्रालय नई दिल्ली ने अपने प्रादेश सं. एल-14012/80/91-आई.आर. (डी.यू.) दिनांक 30-09-91 के द्वारा निम्नलिखित विवाद निराकरण हेतु इस अधिकरण को प्रेषित किया है :—

अनुसूची

“Whether the management of Canteen Stores Deptt., Jabalpur is justified in terminating the services of Shri Ramarao, S/o Late Sh. Vankanna, Ex-daily wage LDC and also in not offering him a chance in examination for regularisation? If not, what relief he is entitled to and from what date?”

2. श्रमिक के अनुसार उनकी नियुक्ति निम्न श्रेणी लिपिक के पद पर केन्टीन स्टोर्स डिपार्टमेंट के जबलपुर डिपो में दैनिक वेतनभोगी कर्मचारी के रूप में वर्ष 83 में हुई। श्रमिक स्थायी पद पर काम कर रहा था और वही कार्य कर रहा था जो स्थायी निम्न श्रेणी लिपिक करते हैं। श्रमिक ने 240 दिन से ज्यादा लगातार काम एक वर्ष में किया है। श्रमिक की सेवाएं अकारण ही समाप्त कर दी गई हैं। श्रमिक ने लगातार काम किया इस कारण वह स्थायी कर्मचारी हो गया। श्रमिक हायर-सेकेंडरी परीक्षा पास है और अंग्रेजी टाईपिंग भी भोपाल बोर्ड से पास है। श्रमिक ने लगातार 5 साल तक अपने पद पर काम किया है। अक्टूबर 88 में श्रमिक ने स्थायी पद हेतु परीक्षा दी। श्रमिक की सेवाएं मौखिक रूप से समाप्त की गयी हैं। यूनियन और प्रबंधन के बीच द्विपक्षीय रासमझौता 08-08-90 को हुआ, जिसके अनुसार श्रमिक को दूसरा अवसर विभागीय परीक्षा में बैठने का मिलता है। इसका पालन नहीं किया गया है। श्रमिक चाहता है कि यह घोषणा की जाये कि उसकी सेवाएं में अवैधानिक रूप से समाप्त की गयी है। श्रमिक को सेवा समाप्ति की दिनांक से पुनः सेवा प्राप्त होने तक नियमों के अनुसार वेतन और भत्ते दिये जायें।

3. प्रबंधन के अनुसार श्रमिक को दैनिक वेतनभोगी कर्मचारी के रूप में निम्न श्रेणी लिपिक का पद दिया गया था। श्रमिक औद्योगिक विवाद अधिनियम के अन्तर्गत औद्योगिक कर्मचारी नहीं है। श्रमिक को नियुक्ति नियमों के विरुद्ध दी गयी थी। इस कारण उनको सेवा में रहने का अधिकार नहीं है। केन्टीन स्टोर्स डिपार्टमेंट केन्द्रीय शासन का सावरन पंक्शन है। श्रमिक को 11-10-88 को विभागीय परीक्षा में बैठने का अवसर दिया गया था।

इस परीक्षा में श्रमिक पास नहीं हुआ, इस कारण उसे सेवा से पृथक् किया गया। प्रबंधन चाहता है कि श्रमिक को पुनर्नियुक्ति न दी जाये।

4. श्रमिक ने पहले केन्द्रीय प्रशासनिक अधिकरण जबलपुर बेंच में याचिका प्रस्तुत की थी। यह याचिका ओ.ए. 322/87 है। इस याचिका में निर्णय दि. 28-07-88 को पारित हुआ। इसमें केन्द्रीय प्रशासनिक अधिकरण ने श्रमिक को निर्देश दिये कि वह प्रकरण का निराकरण इस न्यायालय से कराये। इस निर्देश के पालन में श्रमिक ने आवेदन दिया, जिसे भारत सरकार ने इस न्यायालय को निराकरण हेतु भेजा।

5. केन्टीन स्टोर्स डिपार्टमेंट के कर्मचारी औद्योगिक कर्मचारी है या नहीं यह विवाद का प्रमुख बिन्दु है। धारा 2 (जे) औद्योगिक विवाद अधिनियम में इंडस्ट्री की परिभाषा दी गयी है। इसमें यह उल्लेख है कि जहां पर श्रमिक वस्तुओं के वितरण के संबंध में कार्य करता है। वहां संस्थान इंडस्ट्री है। इस संबंध में बेंगलूर वाटर सप्लाई एंड सिविलियन विरुद्ध ए. राजपा और अन्य का निर्णय जो 1978 एससीसी (एस एंड एस) 215 में मुद्रित है, अवलोकनीय है। उच्चतम न्यायालय ने यह प्रतिपादित किया है कि वह संस्थान जो प्रबंधन और श्रमिक के सहयोग से उत्पादन करता है और इस उत्पादन का लाभ समाज की आवश्यकता और इच्छा की पूर्ति करते हैं, वहां इस प्रकार का संस्थान इंडस्ट्री है। केन्द्रीय शासन के ऐसे विभाग जिनका संबंध सावरन पंक्शन में है इनमें अवर उत्पादन होता है और इसका लाभ समाज को मिलता है तो वे इंडस्ट्री की परिभाषा में आयेंगे। उच्चतम न्यायालय में इस निर्णय में एस. ई. एस. को इंडस्ट्री माना है।

6. सिक्थोरिटी पेपर मिल को भी उच्चतम न्यायालय ने धारा 2(जे) औद्योगिक विवाद अधिनियम के अन्तर्गत इंडस्ट्री माना है। इस संबंध में सिक्थोरिटी पेपर मिल विरुद्ध हरी शंकर नामदेव और अन्य का प्रकरण जो 1980 (2) एल.एल.जे. 61 में मुद्रित है, विचारणीय है। ऊपर लिखी विवेचना का निष्कर्ष यह है कि केन्टीन स्टोर्स डिपार्टमेंट धारा 2 (जे) औद्योगिक विवाद अधिनियम के अन्तर्गत इंडस्ट्री है और वर्तमान रिकॉर्स इस न्यायालय में चलने योग्य है।

7. प्रबंधन की ओर से श्री श्रीवास्तव का शपथ पत्र दिया गया है। इन्होंने शपथ पत्र के प्रति परीक्षण की कंडिका (1) में कहा है कि श्रमिक की नियुक्ति स्वीकृत पद के विरुद्ध की गयी थी। कंडिका (2) में कहा गया है कि श्रमिक ने 18-11-83 से 14-02-89 तक लगातार कार्य किया है। श्रमिक की सेवा समाप्ति फरवरी 89 में बिना किसी लिखित आदेश के की गयी। कंडिका (3) में कहा गया है कि श्रमिक को दूसरा अवसर विभागीय परीक्षा पास करने का नहीं दिया गया। यह भी स्वीकार

किया गया है कि द्विपक्षीय समझौते के अनुसार श्रमिक को दूसरा मौका टेस्ट पास करने को देना आवश्यक था और यह नहीं दिया गया। इस प्रकार यह तथ्य सिद्ध है।

8. केन्टीन स्टोर्स डिपार्टमेंट में स्थायी पद था। इस पद पर श्रमिक दैनिक वेतन भोगी कर्मचारी के रूप में लगातार साठे पांच साल तक कार्यरत रहा। उसकी सेवा समाप्ति मौखिक रूप से की गयी। उसे द्विपक्षीय समझौता के विपरीत दूसरी बार विभागीय परीक्षा नहीं देने दिया गया। सेवा समाप्ति से पूर्व उसे नोटिस नहीं दिया गया और छटनी मुआवजा भी नहीं दिया गया।

9. जब कोई संस्थान किसी श्रमिक से 6 वर्ष तक कार्य लेता है और उसके पास स्थायी पद है तो इस कर्मचारी को इस पद पर स्थायी नहीं करना उस श्रमिक के साथ घोर अन्याय है। प्रबंधन को इस प्रकार की नियुक्ति देने से पहले देख लेना चाहिये था कि जिस श्रमिक को वे रखने जा रहे हैं, उसके जीवन यापन का समुचित प्रबंध है या नहीं। प्रबंधन यह तर्क देकर अपनी अकर्मण्यता और अक्षमता को ठक नहीं सकता कि श्रमिक की नियुक्ति अवैधानिक थी। आज जब कि श्रमिक श्रोवर ऐज हो गया है और किसी अन्य पद को पाने के लिये सक्षम नहीं है तब प्रबंधन की अयोग्यता उसका जीवन नष्ट कर देगी। न्यायिक प्रक्रिया इस प्रकार के कृत्य को माफ नहीं कर सकती।

10. श्रमिक ने एक वर्ष में लगातार 240 दिन से ज्यादा काम किया है। यह कार्य करीब 6 वर्ष तक किया है। ऐसी स्थिति में उसे बिना नोटिस और छटनी मुआवजा दिये सेवा से पृथक् नहीं किया जा सकता। प्रबंधन का सेवा पृथक् करने का निर्णय अवैधानिक है और निरस्त होना योग्य है।

11. अवार्ड दिया जाता है कि फरवरी, 89 में श्रमिक को सेवा से पृथक् करने का आदेश अवैधानिक है। श्रमिक लगातार सेवा में माना जावेगा। उसे नियम के अनुसार निम्न श्रेणी लिपिक का वेतन और भत्ते देय होंगे। अवार्ड मुद्रित होने के तीन माह के अंदर श्रमिक को सम्पूर्ण भुगतान श्रमिक को कर दिये जाये, अन्यथा 12 प्रतिशत प्रति वर्ष ब्याज की दर से श्रमिक ब्याज पाने का अधिकारी होगा। दोनों पक्ष इस प्रकरण का अपना-अपना व्यय वहन करें।

12. अवार्ड की प्रतियां नियमानुसार भारत सरकार श्रम मंत्रालय को प्रेषित की जाती हैं।

डी. एन. दीक्षित, पीठासीन अधिकारी

नई दिल्ली, 25 सितम्बर, 1998

का.आ. 2022—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केन्टीन स्टोर्स डिपार्टमेंट जबलपुर के प्रबंधन के संबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट की प्रकाशित करती है, जो केन्द्रीय सरकार को 25-9-98 को प्राप्त हुआ था।

[स. एल-14012/81/91-आईआर(डीयू)]

के. वी. बी. उन्नी, डेस्क अधिकारी

New Delhi, the 25th September, 1998

S.O. 2022.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Canteen Stores Deptt., Jabalpur and their workman, which was received by the Central Government on the 25-9-98.

[No. L-14012/81/91-IR(DU)]

K. V. B. UNNY, Desk Officer

अनुबंध

केन्द्रीय औद्योगिक अधिकरण एवं श्रम न्यायालय,
जबलपुर (म.प्र.)

डी. एन. दीक्षित

पीठासीन अधिकारी

प्र. क्रं. सीआईटी/एलसी-आर/(165)/91

श्री विनेश कुमार,
आत्मज: श्री जी. वी. फडके
सिम्पलेक्स फैक्ट्री के पास,
जबलपुर (म.प्र.)

...प्रार्थी

विरुद्ध

प्रबंधक

केन्टीन स्टोर्स डिपार्टमेंट

15, राबर्ट वेरक कैंट,

जबलपुर (म. प्र.) ।

...प्रतिप्रार्थी

अवार्ड

दिनांक 10-09-98

1. भारत सरकार श्रम मंत्रालय, नई दिल्ली ने अपने आदेश सं. एल-14012/81/91-आई. आर. (डी.यू.) दिनांक 30-09-91 के द्वारा निम्नलिखित विवाद निराकरण हेतु इस अधिकरण को प्रेषित किया है :—

अनुसूची

“Whether the management of Canteen Stores Deptt., Jabalpur (M.P.) is justified in terminating the services of Shri Dinesh Kumar, s/o Late Sh. G. V. Farkey, Ex-daily wage LDC and also in not giving him an opportunity in examination for regularisation? If not, what relief he is entitled to and from what date?”

2. श्रमिक के अनुसार उसकी नियुक्ति निम्न श्रेणी लिपिक के पद पर केन्टीन स्टोर्स डिपार्टमेंट के जवल्पुर डिपो में दैनिक वेतन भोगी कर्मचारी के रूप में वर्ष 83 में हुई। श्रमिक स्थायी पद पर काम कर रहा था और वही कार्य कर रहा था जो स्थायी निम्न श्रेणी लिपिक करते हैं। श्रमिक ने 240 दिन से ज्यादा लगातार काम एक वर्ष में किया है। श्रमिक की सेवायें अकारण ही समाप्त कर दी गयी हैं। श्रमिक ने लगातार काम किया इस कारण वह स्थायी कर्मचारी हो गया। श्रमिक हायर-सेकेण्डरी परीक्षा पास है और अंग्रेजी टाईपिंग भी भोपाल बोर्ड से पास है। श्रमिक ने लगातार 5 साल तक अपने पद पर काम किया है। अक्टूबर 88 में श्रमिक ने स्थायी पद हेतु परीक्षा दी। श्रमिक की सेवायें मौखिक रूप से समाप्त की गयी हैं। यूनियन और प्रबंधन के बीच द्विपक्षीय समझौता 08-08-90 को हुआ, जिसके अनुसार श्रमिक को दूसरा अवसर विभागीय परीक्षा में बैठने का मिलता है। इसका पालन नहीं किया गया है। श्रमिक चाहता है कि यह घोषणा की जाये कि उसकी सेवायें अवैधानिक रूप से समाप्त की गयी हैं। श्रमिक को सेवा समाप्ति की दिनांक से पुनः सेवा प्राप्त होने तक नियमों के अनुसार वेतन और भत्ते दिलाये जायें।

3. प्रबंधन के अनुसार श्रमिक को दैनिक वेतन भोगी कर्मचारी के रूप में निम्न श्रेणी लिपिक का पद दिया गया था। श्रमिक औद्योगिक विवाद अधिनियम के अंतर्गत औद्योगिक कर्मचारी नहीं है। श्रमिक को नियुक्ति नियमों के विरुद्ध दी गयी थी। इस कारण उनको सेवा में रहने का अधिकार नहीं है। केन्टीन स्टोर्स डिपार्टमेंट केन्द्रीय शासन का सावरण फंक्शन है। श्रमिक को 11-10-88 को विभागीय परीक्षा में बैठने का अवसर दिया गया था। इस परीक्षा में श्रमिक पास नहीं हुआ, इस कारण उसे सेवा में प्रत्युत्पन्न किया गया। प्रबंधन चाहता है कि श्रमिक को पुनर्नियुक्ति न दी जाये।

4. श्रमिक ने पहले केन्द्रीय प्रशासनिक अधिकरण, जबलपुर बेंच में याचिका प्रस्तुत की थी। यह याचिका ओ. ए. 322/87 है। इस याचिका में निर्णय दि. 28-07-88 को पारित हुआ। इसमें केन्द्रीय प्रशासनिक अधिकरण ने श्रमिक को निर्देश दिये कि वह प्रकरण का निराकरण इस न्यायालय से कराये। इस निर्देश के पालन में श्रमिक ने आवेदन दिया, जिसे भारत सरकार ने इस न्यायालय को निराकरण हेतु भेजा।

5. केन्टीन स्टोर्स डिपार्टमेंट के कर्मचारी औद्योगिक कर्मचारी है या नहीं यह विवाद का प्रमुख बिन्दु है।

धारा 2 (जे) औद्योगिक विवाद अधिनियम में इन्डस्ट्री की परिभाषा दी गयी है। इसमें यह उल्लेख है कि जहां पर श्रमिक वस्तुओं के वितरण के संबंध में कार्य करता है। वहां संस्थान इन्डस्ट्री है। इस संबंध में बंगलौर वाटर सप्लाई एंड मिजरेज विरुद्ध ए. राजप्पा और अन्य का निर्णय जो 1978 एससीसी (एल एंड एस) 215 में मुद्रित है, अवलोकनीय है। उच्चतम न्यायालय ने यह प्रतिपादित किया है कि वह संस्थान जो प्रबंधन और श्रमिक के सहयोग से उत्पादन करता है और इस उत्पादन का लाभ समाज की आवश्यकता और इच्छा की पूर्ति करते हैं, वहां इस प्रकार का संस्थान इन्डस्ट्री है। केन्द्रीय शासन के ऐसे विभाग जिनका संबंध सावरण फंक्शन से है इनमें अगर उत्पादन होता है और इसका लाभ समाज को मिलता है तो वे इन्डस्ट्री की परिभाषा में आयेगा। उच्चतम न्यायालय में इस निर्णय में एम. ई. एस. को इन्डस्ट्री माना है।

6. सिन्धोरिटी पेपर मिल को भी उच्चतम न्यायालय ने धारा 2 (जे) औद्योगिक विवाद अधिनियम के अंतर्गत इन्डस्ट्री माना है। इस संबंध में सिन्धोरिटी पेपर मिल विरुद्ध हरी शंकर नामदेव और इस का प्रकरण जो 1980 (2) एल. एल. जे. 61 में मुद्रित है, विचारणीय है। ऊपर लिखी विवेचना का निष्कर्ष यह है कि केन्टीन स्टोर्स डिपार्टमेंट धारा 2 (जे) औद्योगिक विवाद अधिनियम के अंतर्गत इन्डस्ट्री है और वर्तमान रिफरेंस इस न्यायालय में चलने योग्य है।

7. प्रबंधन की ओर से श्री दिनेश कुमार का शपथ पत्र दिया गया है। इन्होंने शपथ पत्र के प्रति परीक्षण की कड़िका (1) में कहा है कि श्रमिक की नियुक्ति स्वीकृत पद के विरुद्ध की गयी थी। कड़िका (2) में कहा गया है कि श्रमिक ने 18-11-83 से 14-02-89 तक लगातार कार्य किया है। श्रमिक की सेवा समाप्ति फरवरी 89 में बिना किसी लिखित आदेश के की गयी। कड़िका (3) में कहा है कि श्रमिक को दूसरा अवसर विभागीय परीक्षा पास करने का नहीं दिया गया। यह भी स्वीकार किया गया है कि द्विपक्षीय समझौते के अनुसार श्रमिक को दूसरा मौका टेस्ट पास करने को देना आवश्यक था और यह नहीं दिया गया। इस प्रकार यह तथ्य सिद्ध है।

8. केन्टीन स्टोर्स डिपार्टमेंट में स्थायी पद था इस पद पर श्रमिक दैनिक वेतन भोगी कर्मचारी के रूप में लगातार साढ़े पांच साल तक कार्यरत रहा। उसकी सेवा समाप्ति मौखिक रूप से की गयी। उसे द्विपक्षीय समझौते के विपरीत दूसरी बार विभागीय परीक्षा नहीं देने दिया गया। सेवा समाप्ति से पूर्व उसे नोटिस नहीं दिया गया और छंटनी मुआवजा भी नहीं दिया गया।

9. जब कोई संस्थान किसी श्रमिक से 6 वर्ष तक कार्य लेता है और उसके पास स्थायी पद है तो इस कर्मचारी को इस पद पर स्थायी नहीं करना उस श्रमिक के साथ घोर अन्याय है। प्रबंधन को इस प्रकार की नियुक्ति

बेने से पहले देख लेना चाहिये था कि जिस श्रमिक को वे रखने जा रहे हैं, उसके जीवन यापन का समुचित प्रबंध है या नहीं। प्रबंधन यह तर्क देकर अपनी अकर्मण्यता और अक्षमता को छुल नहीं सकता कि श्रमिक की नियुक्ति अवैधानिक थी। आज जबकि श्रमिक ओवर ऐज हो गया है और किसी अन्य पद को पाने के लिये सक्षम नहीं है तब प्रबंधन की अयोग्यता उसका जीवन नष्ट कर देगी। न्यायिक प्रक्रिया इस प्रकार के कृत्य को माफ नहीं कर सकती।

10. श्रमिक ने एक वर्ष में लगातार 240 दिन से ज्यादा काम किया है। यह कार्य करीब 6 वर्ष तक किया है ऐसी स्थिति में उसे बिना नोटिस और छटनी मुआवजा दिये सेवा से पृथक नहीं किया जा सकता। प्रबंधन का सेवा पृथक करने का निर्णय अवैधानिक है और निरस्त होने योग्य है।

11. अवार्ड दिया जाता है कि फरवरी 89 में श्रमिक को सेवा से पृथक करने का आदेश अवैधानिक है। श्रमिक लगातार सेवा में माना जावेगा। उसे नियम के अनुसार निम्न श्रेणी लिपिक का वेतन और भत्ते देय होंगे। अवार्ड सुनिश्चित होने के तीन माह के अंदर श्रमिक को सम्पूर्ण भुगतान श्रमिक को कर दिये जाये, अन्यथा 12 प्रतिशत प्रतिवर्ष ब्याज की दर से श्रमिक ब्याज पाने का अधिकारी होगा। दोनों पक्ष इस प्रकरण का अपना-अपना व्यय वहन करें।

12. अवार्ड की प्रतियां नियमानुसार भारत सरकार श्रम मंत्रालय को प्रेषित की जाती है।

डी. एन. दीक्षित, पीठासीन अधिकारी

नई दिल्ली, 18 सितम्बर, 1998

का.पा. 2023.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इलाहाबाद बैंक के प्रबंधन से संबंधित नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-9-98 को प्राप्त हुआ था।

[सं. एल-12011/7/94-आई.आर. (बी-II)]

सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 18th September, 1998

S.O. 2023.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Allahabad Bank and their workman, which was received by the Central Government on 17-9-98.

[No. L-12011/7/94-IR(B-II)]

C. GANGADHARAN, Desk Officer

अनुबंध

केन्द्रीय औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर (म.प्र.)

डी. एन. दीक्षित

पीठासीन अधिकारी

प्र.क. गीजीआईटी/एलसी/आर/186/94

श्री ए.के. बेनर्जी

ज्वाइंट सेक्रेटरी,

आल इंडिया इलाहाबाद बैंक

एम्प्लॉयज एसोसियेशन म.प्र. यूनिट

द्वारा : इलाहाबाद बैंक, शास्त्री मार्ग,

जबलपुर (म.प्र.) प्राप्ति

विषय

क्षेत्रीय प्रबंधक,

इलाहाबाद बैंक, क्षेत्रीय कार्यालय,

सिविल लाइन्स, जबलपुर (म.प्र.) प्रतिप्राप्ति

अवार्ड

दिनांकित : 9-9-98

1. भारत सरकार, श्रम मंत्रालय, नई दिल्ली ने अपने आदेश संख्या एल-12011/07/94-आई.आर. (बी-2) दिनांक 26-9-94 के द्वारा निम्नलिखित विवाद निराकरण हेतु इस अधिकरण को भेजा है :—

अनुसूची

“Whether the action of the management of Allahabad Bank, Bhopal/Jabalpur in not promoting the 19 workmen (as mentioned in the Annexure) from sub-ordinate staff cadre to clerical cadre is justified? If not, what relief are the workmen concerned entitled to?”

2. दिनांक 26-11-97 को प्रकरण श्रमिक की साक्ष्य के लिए नियत था। श्रमिक ने साक्ष्य के लिए समय लिया। दिनांक 17-3-98 को श्रमिक को प्रतिम अवसर साक्ष्य प्रस्तुत करने का दिया गया। दिनांक 4-5-98 को श्रमिक अनुपस्थित हो गया और प्रकरण अवार्ड के लिए नियत किया गया। इस दिनांक से आज तक श्रमिक ने कोई आवेदन प्रकरण को पुनः तब तक पर लाने के लिए नहीं किया है। ऐसा प्रतीत होता है कि श्रमिक को विवाद में रुचि नहीं है। अवार्ड प्रबंधन के पक्ष में दिया जाता है। दोनों पक्ष इस प्रकरण का अपना-अपना व्यय वहन करें।

3. नियमानुसार अवार्ड की प्रतियां भारत सरकार, श्रम मंत्रालय, नई दिल्ली को प्रेषित की जाती है।

डी. एन. दीक्षित, पीठासीन अधिकारी

नई दिल्ली, 18 सितम्बर, 1998

का.पा. 2024.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इलाहाबाद बैंक के प्रबंधन से संबंधित नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-9-98 को प्राप्त हुआ था।

[सं. एल-12012/95/90-आई.आर. (बी-II)]

सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 18th September, 1998

S.O. 2024.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Allahabad Bank and their workman, which was received by the Central Government on 17-9-98.

[No. L-12012/95/90-JR(B-II)]

C. GANGADHARAN, Desk Officer

अनुबंध

केन्द्रीय औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर म.प्र.

डी.एन. दीक्षित

पीठासीन अधिकारी

प्र.क्र.सी.जी.आई.टी./एल.सी./आर./205/90

श्री पन्नालाल आत्मज परसराम कहार,

इलाहाबाद बैंक के सामने कोड़िया

जिला नरसिंहपुर (म.प्र.)

प्रार्थी

विरुद्ध

क्षेत्रीय प्रबन्धक,

इलाहाबाद बैंक, क्षेत्रीय कार्यालय,

रेसीडेन्सी रोड, सिविल लाईन जबलपुर (म.प्र.) ... प्रतिप्राप्ति

अर्वाइ

दिनांकित 9-9-98

1. भारत सरकार, श्रम मंत्रालय, नई दिल्ली ने अपने आदेश संख्या: एल-12012/95/90-आई.आर. (बी-2) दिनांक 19-10-98 के द्वारा निम्नलिखित विवाद निराकरण हेतु इस अधिकरण को प्रेषित किया है:—

अनुसूची

“क्या इलाहाबाद बैंक, जबलपुर (म.प्र.) के प्रबन्धकों द्वारा श्री पन्ना लाल आत्मज श्री परसराम कहार, भू.पू. प्यून-कम फराण की सेवाएं दिनांक 25-3-1984 से समाप्त किये जाने की कार्यवाही न्यायोचित है। यदि नहीं तो संबंधित कर्मकार किस अनुवोध का हकदार है।”

2. श्रमिक को दिनांक 29-12-94 के लगातार गवाह प्रस्तुत करने के लिए अवसर दिया जा रहा है। दिनांक 1-5-95 को श्रमिक को 50/-रु. कास्ट पर पेशगी दी गई। दिनांक 16-10-97 को अंतिम अवसर श्रमिक को गवाह प्रस्तुत करने के लिए दिया गया। दिनांक 13-2-98 को श्रमिक अनुपस्थित हो गया। फिर भी उसे अंतिम अवसर गवाह प्रस्तुत करने के लिए दिया गया। दिनांक 26-3-98 को श्रमिक को पुनः अंतिम अवसर गवाह प्रस्तुत करने को दिया गया। दिनांक 25-5-98 को श्रमिक पुनः अनुपस्थित हो गया और यह प्रकरण अर्वाइ के लिये नियत किया गया। दिनांक 25-5-98 से आज तक श्रमिक ने इस प्रकरण

को पुनः नंबर पर लाने का प्रयास नहीं किया। ऐसा प्रतीत होता है कि श्रमिक को कोई सच इस विवाद के निराकरण में नहीं है। श्रमिक इस न्यायालय में यह सिद्ध करने में असफल रहा कि उसकी सेवा मुक्ति का आदेश अवैधानिक है। प्रबन्धन के पक्ष में अर्वाइ दिया जाता है। दोनों पक्ष इस प्रकरण का अपना-अपना व्यय वहन करें।

3. नियमानुसार अर्वाइ की प्रतियां भारत सरकार, श्रम मंत्रालय नई दिल्ली को प्रेषित की जाती है।

डी.एन. दीक्षित, पीठासीन अधिकारी

नई दिल्ली, 18 सितम्बर, 1998

का.आ. 2025.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसर्गण में केन्द्रीय सरकार इलाहाबाद बैंक के प्रबन्धतव के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कलकत्ता के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-9-98 को प्राप्त हुआ था।

[सं. एल-12012/437/92-आई.आर.बी.-(II)]

सा. गंगाधरन, डेस्क अधिकारी

New Delhi, the 18th September, 1998

S.O. 2025.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Allahabad Bank and their workman, which was received by the Central Government on 17-9-98.

[No. L-12012/437/92-IR(B-II)]

C. GANGADHARAN, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL AT CALCUTTA

Reference No. 27 of 1993

PARTIES:

Employers in relation to the management of
Allahabad Bank.

AND

Their Workmen

PRESENT:

Mr. Justice A. K. Chakravarty .. Presiding
Officer.

APPEARANCE:

On behalf of Management—Mr. S. K. Ghosh,
Senior Manager (Law) of the Bank.

On behalf of Workmen—Mr. M. Chakraborty,
Joint Secretary of the Union.

STATE : West Bengal. INDUSTRY : Banking.

AWARD

By Order No. L-12012/437/92 IR(B-II) dated 12-4-1993 the Central Government in exercise of its powers under section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

“Whether the demand of Dilip Kumar of Allahabad Bank Workers Union (W.B.) that Shri Dilip Kumar Pal should be regularised as permanent part-time sweeper at the Nabagram Branch of the Allahabad Bank is justified? If so, what relief Shri Dilip Kumar Pal is entitled to?”

2. The instant case has arisen at the instance of Allahabad Bank Workers Union (W.B.) for regularisation of the service of Dilip Kumar Pal as permanent part-time sweeper of the Nabagram Branch of the Allahabad Bank. (in short the management).

3. Union's case, in short, is that the concerned workman, Dilip Kumar Pal has been working as part-time sweeper on consolidated wages since 31-8-1989 at the Nabagram Branch of the Allahabad Bank. Shri Pal completed more than 2½ years of service as part-time sweeper and he applied for his permanent appointment at Nabagram Branch as part-time sweeper on 11-12-1991. His prayer was refused as the management contemplated to call persons from Employment Exchange for recruitment of part-time sweeper Nabagram Branch. The sponsoring union thereafter took up the cause on behalf of the concerned workman and raised an industrial dispute before the Assistant Labour Commissioner (Central), Calcutta. The recruitment was stopped and the conciliation officer referred the matter to the Central Government, which has sent the matter to this Tribunal for adjudication by way of present reference. The union has further alleged that payment to Shri Pal was made through vouchers in the name of the Manager for the purpose of sweeping the premises and his duty was for about one hour on consolidated salary. The union has further alleged that the scale of salary of part-time sweeper as per industry-wise bipartite settlement are consolidated salary at the rate of Rs. 175. There is also full time sweepers on full scale of wages. Union has also alleged that the area of the branch is less than 1200 Sq. feet and the concerned part-time sweeper's salary was consolidated Rs. 175 per month as per memorandum of settlement dated 22-4-1989. The management should have paid consolidated salary to the sweeper through pay-sheet and his name should have been in the attendance register. The union has accordingly prayed for regularisation of the service of the concerned workman.

4. The management of Allahabad Bank in its written statement denied the material allegations of the union. Management's positive case in its written is that for employment of all categories of employees in the Bank, the management is required to follow certain procedure in terms of Government Guidelines Bank's policy, like the candidates are to be sponsored by the Employment Exchange, written test and/or interview are to be conducted for selection of the candidates, merit tests of successful candidates are 2605 GE 99-7.

to be conducted, pre-employment formalities are to be complied etc. The concerned workman having not passed through the above procedural formalities, his prayer for regularisation cannot be entertained. The management has further alleged that every workman of the Bank has to work for stipulated hours for which he gets monthly wages, but the concerned workman had no such fixed working hours, nor there was any contract of service between him and the Bank and also the disciplinary rules of the Bank are not applicable against the concerned workman. The management also alleged that the concerned workman never applied for his permanent appointment as part-time sweeper on 11-12-91 as pleaded by his union. The management has also alleged that upon calling for names of the candidates for appointment as sweeper from S.C./S.T. category, preferably from sweeping community, the Employment Exchange has forwarded 16 names but their interview was deferred due to some administrative reasons. The management also alleged that the concerned Branch, used to hire different persons of the locality on daily basis when required and such persons were required to attend office building of the Bank only for an hour for sweeping the premises and the payment for such work is made through Branch Manager. Management also denied that he performed continuous duty in any year. The management has also alleged that in the absence of any relationship of master and servant between the management and the concerned workman, no question of payment to the latter through pay-sheet or recording his name in the attendance register can arise. The management has accordingly prayed for dismissal of the union's case.

5. The written statement of the management was followed by a rejoinder of the union wherein it is stated that though for employment of sweepers in the Bank candidates from the local employment exchange was called for interview, still then, that procedure has no application in the case of the concerned workman because the rule was introduced after the concerned workman became eligible for employment. Rest of the allegations in the rejoinder are mere denials of the allegations of the management in its written statement.

6. Two witnesses were examined on behalf of the union to prove its case. The concerned workman stated in his evidence that he had been working as part-time sweeper at Nabagram Branch of the Bank at the recommendation of the owner of the house in which the Bank is situated and he used to receive his salary every month by vouchers and also he requested the Manager for regularisation of his service. He further, stated that he used to do his job as part-time sweeper under the oral instruction of the Manager and initially he used to get Rs. 5 per day which was raised to Rs. 10 per day and that he worked throughout the year and though he used to get his payment by vouchers he is getting the same in cash now from the Manager. WW-2, Shri Dhirendra Nath Roy, Head Cashier of the Nabagram Branch of Allahabad Bank stated in his evidence that he saw the concerned workman working as part-time sweeper since 1990 and he got his salary through vouchers raised in the name of the Branch Manager. He also stated that every employment of sweepers in the Bank must be made

through Employment Exchange and that Shri Pal was not appointed as per guidelines of the Bank.

7. On behalf of the management MW-1, Ajay Pathak, Manager, Establishment Section at the Regional Office of the Bank at Howrah under whose jurisdiction Nabagram Branch falls deposed that he came to know from the Branch Manager of the Nabagram Branch that the concerned workman was engaged by the Bank 4½ years back for sweeping the premises of the Branch and that the concerned workman works for one or two hours on every working day. He further stated that the Bank cannot appoint sweepers without following the formalities laid down in the circular (Ext. M-1). In his cross examination he stated that on 4-3-1997 he informed the Eastern Zonal Office that since the concerned workman was working since 1989 he recommended in his letter to the Eastern Zonal Office that his service may be regularised prospectively, but his proposal was not accepted.

8. So, upon consideration of the evidence mentioned above it will be at once clear that the concerned workman is working as a part-time sweeper of the Nabagram Branch of Allahabad Bank since 31-8-89 and he is still working in the said branch. The workman's evidence that he requested the management to make his service regular having not been challenged in his cross-examination. It is also established that he also applied for regularisation of his service on 11-12-1991. The union having intervened on behalf of the concerned workman only when his application for regularisation was turned down, it is clear that the concerned workman worked uninterruptedly for about two and half years when the industrial dispute was raised in the matter.

9. The moot point for consideration in this case accordingly will be whether because of such rendering of service by the concerned workman as a part-time sweeper for about two and half years, the management should have regularised his service. There is no dispute that there is one vacant post of part-time sweeper in the branch which requires to be filled up. Mr. Ghosh, representative of the management submitted that the management is bound to follow the procedure laid down by the Bank for appointment of sweepers, full-time, part-time or on consolidated pay basis. The guidelines for recruitment of sweepers shall appear from the circular marked Ext. M-1 in this case. It will appear from this circular that such appointment of sweepers are to be made from the candidates whose names have been sponsored by the Employment Exchange. So, according to Mr. Ghosh, no question of consideration of the case of the concerned workman can arise as his name was never sponsored by the Employment Exchange. In support of his contention he referred to the case of Surinder Singh Jamwal v. State of Jammu and Kashmir, reported in AIR 1996 SC 2275 where it is held that it is settled legal position that recruitment to the service should be governed by the appropriate statutory rules.

10. There cannot be any doubt that no appointment can be made in any service de-hors the statutory rules prescribing mode of appointment of sweepers. The circular issued by the bank prescribing guidelines for such appointment can never be the substitute of the statutory rules and accordingly the law laid down in the above Supreme Court case has no manner of application to the facts of the present case. Circulars of such nature issued by the Bank are merely for administrative convenience and the guidelines laid therein shall not apply in any particular case where it is found that they run counter to the laws in this matter.

11. I am accordingly to mention three decisions which really provide the guidelines for regularisation of employees where it is found that 'badli', casual or temporary workman having adhoc status of employees working for long time. There is no dispute that part-time sweepers are employees of the Bank. So, it is clear that the concerned workman was doing his work as temporary part-time workman. I have already stated that the industrial dispute arose after the management refused to entertain the application of the concerned workman for his regularisation in service after about two and half years of his appointment.

12. Regarding the cases which provides the guidelines for regularisation of service of badli, casual or temporary workmen I am to mention the case of State of Haryana v. Piyara Singh, reported in 1992 (4) SCC 118 where it was held that temporary adhoc status of employee for a long time raises a presumption about the need for a regular post and accordingly requires regularisation. Mention may also be made to the case of Shib Shankar Chakraborty v. State of West Bengal, reported in 1994 Lab I. C. 1537 which is a Division Bench decision of the Calcutta High Court in the matter. Reference may also be made to another decision of the Hon'ble Supreme Court in Chief Conservator of Forests v. Jagannath Maruti Kondhare, reported in 1996 (1) LLJ 1223. In both these cases the principles laid down in Piyara Singh's case regarding regularisation were followed. Thus, there cannot be any uncertainty regarding the position of law in the matter.

13. The concerned workman thus having been made to work uninterruptedly as part-time sweeper for about two and half years and the existence of such a vacant post being admitted, no matter what the circular prescribes as conditions for appointment to that post, the service of the concerned workman has got to be regularised on the strength of the decisions that if temporary posts are allowed to remain vacant for sufficient long time, the service of the person performing the duties of such posts for such long time shall have to be regularised.

14. So, upon consideration of the facts and circumstances of the case as well as the position of law in the matter, I am to hold that the demand of the concerned workman, namely, Dilip Kumar Pal for regularisation of his service as part-time sweeper of the Nabagram Branch of the Allahabad Bank is justified and the Bank is directed to regularise his

service with effect from 11-12-1991 on which date the concerned workman applied to the management for regularisation of his service. The Bank also shell grant all consequential benefits to the concerned workman arising out of such regularisation of service from the said date.

This is my Award.

Dated : Calcutta,

The 8th September, 1998.

A. K. CHAKRAVARTY, Presiding Officer.

नई दिल्ली, 17 सितम्बर, 1998

का.आ. 2026.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में आई.बी.पी. के. लि. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं.-2) मुम्बई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-9-98 को प्राप्त हुआ था।

[सं. एल-30012/16/98-आईआर (सी-I)]

एस.एस. गुप्ता, डेस्क अधिकारी

New Delhi, the 17th September, 1998

S.O. 2026.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. 2) Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. IBP Co. Ltd. and their workman, which was received by the Central Government on 17-9-1998.

[No. L-30012/16/98-IR(C-I)]

S. S. GUPTA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. II, MUMBAI

PRESENT :

SHRI S. B. PANSE, Presiding Officer.

REFERENCE NO. CGIT-2/88 OF 1998

Employers in relation to the management of
M/s. I.B.P. Co. Ltd.

And

Their Workmen.

APPEARANCES :

For the Employer—No Appearance.

For the Workmen—In person.

Mumbai, dated 20th August, 1998

AWARD

The Government of India, Ministry of Labour by its Order No. L-30012/16/98-I (C-I) dated 30th June, 1998 had referred to the following Industrial Dispute for adjudication.

“Whether the action of the management of M/s. IBP Co. Ltd. BG-Petroleum terminating the services of Mr. Shamrao B. Pandev w.e.f. 19-8-97 is justified? If not, to what relief the workman is entitled to?”

2. The Secretary of the Tribunal send notices to the concerned parties in respect of the reference. After receipt of the reference the workman Shamrao B. Pandev remained present in the court on 12th August, 1998 and submitted that the company had reinstated him in service and he had no grievance against the company. He further submitted that now they want to withdraw the dispute. Alongwith the said application (Exhibit-3) he had produced the order issued by the company to him. Under such circumstances the workman does not want to proceed with the matter as settled. Hence, I pass the following order :

ORDER

The reference is disposed off as settled.

S. B. PANSE, Presiding Officer

नई दिल्ली, 17 सितम्बर, 1998

का.आ. 2027.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में बी. सी. सी. एल. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. -2) धनबाद के पंचाट को प्रकाशित करती है। जो केन्द्रीय सरकार को 17-9-98 को प्राप्त हुआ था।

[सं. एल-20012/322/91-आईआर (सी-I)]

एस.एस. गुप्ता, डेस्क अधिकारी

New Delhi, the 17th September, 1998

S.O. 2027.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. 2), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. B.C.C.L. and their workman, which was received by the Central Government on 17-9-98.

[No. L-20012/322/91-IR(C-I)]

S. S. GUPTA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2) AT
DHANBAD.

PRESENT :

Shri B. B. Chatterjee, Presiding Officer.

In the matter of an Industrial Dispute under
Section 10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 4 OF 1994

PARTIES :

Employers in relation to the management of
Ena Colliery of M/s. BCCL and their
workmen.

APPEARANCES :

On behalf of the workmen—None.

On behalf of the employers—None.

STATE : Bihar. INDUSTRY : Coal.

Dated, Dhanbad, the 8th September, 1998

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(322)/91-I.R. (Coal-I) dated, the 5th October, 1993.

SCHEDULE

"Whether the action of the management of Ena Colliery, Kustore Area, of BCCL in not accepting the date of birth of Sh. Prayag Mahato recorded in Mining Sirdar Certificate, as per I.I. No. 76 of JBCCI is justified? If not, to what relief the workman is entitled to?"

2. Soon after the receipt of the order of reference notices were duly served upon the parties. But none of the parties turned up nor took any steps. The case then proceeded along its course. Then again notices were issued to them but in spite of the issuance of the notices to them they neither appeared nor took any steps. It therefore leads me to an inference that presently there is no dispute existing between the parties. In the circumstances, I have no other alternative but to pass a 'No dispute' Award in this reference.

B. B. CHATTERJEE, Presiding Officer

नई दिल्ली, 17 सितम्बर, 1998

का.प्र. 2028 :—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मै० बी०सी० सी०एल० के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण

(सं.-2), धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार की 17-9-98 को की प्राप्त हुआ था

[सं० एल-20012/221/90-आईएमएर(सी-1)]

एस० एस० गुप्ता, डेस्क अधिकारी

New Delhi, the 17th September, 1998

S.O. 2028.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No.-2), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. B.C.C.L. and their workman, which was received by the Central Government on 17-9-1998.

[No. L-20012/221/90-IR(C-I)]

S. S. GUPTA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUS-
TRIAL TRIBUNAL (NO. 2) AT DHANBAD
PRESENT

Shri B. B. Chatterjee, Presiding Officer.

In the matter of an Industrial Dispute under
Section 10(1) (d) of the I.D. Act., 1947.

REFERENCE NO. 5 OF 1991.

PARTIES :

Employers in relation to the management of
Basantimata Colliery of M/s. B.C.C.L. and
their workmen.

APPEARANCES :

On behalf of the workman : None.

On behalf of the employers : None.

STATE : Bihar. INDUSTRY : Coal.

Dated, Dhanbad, the 7th September, 1998

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012 (221)/90-I.R. (Coal-I), dated, the 14th December, 1991.

SCHEDULE

"Whether the action of the management of Basantimata Colliery of M/s. Bharat Coking Coal Limited in dismissing Shri Raghuni Nonia, Lamp Mazdoor from service is justified? If not, to what relief the concerned workman is entitled to?"

2. Soon after the receipt of the order of reference notices were duly served upon the parties. But both the parties abstained from appearing before this Tribunal. They again and again notices were issued to them but none of them turned up nor took any steps. It therefore leads me to an inference that presently there is no dispute existing between the parties and in the circumstances, I have no other alternative but to pass a 'No dispute' Award in this reference.

B. B. CHATTERJEE, Presiding Officer.

नई दिल्ली, 17 सितम्बर, 1998

का.आ. 2029:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में बी०सी०सी०एल० के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. 2), धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-9-98 को प्राप्त हुआ था।

[सं.एल-20012/74/94-आईआर(सी-I)]

एस.एस. गुप्ता, डेस्क अधिकारी

New Delhi, the 17th September, 1998

S.O. 2029.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. 2), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. B.C.C.L. and their workman, which was received by the Central Government on 17-9-98.

[No. L-20012/74/94-IR(C-I)]
S. S. GUPTA, Desk Officer.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD
PRESENTShri B. B. Chatterjee,
Presiding Officer.In the matter of an Industrial Dispute under
Section 10(1) (d) of the I. D. Act, 1947

Reference No. 36 of 1995

PARTIES :

Employers in relation to the management of
Block 2 Area of M/s. B.C.C.L. and their
workmen.

APPEARANCES :

On behalf of the workmen : None.
On behalf of the employers : None.

State : Bihar. INDUSTRY : Coal.

Dated, Dhanbad, the 31st August, 1998

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(74)/94-I.R. (Coal-I), dated, the 10th March, 1995.

SCHEDULE

“Whether the demand of the union for promoting Shri Anjun Prasad in the Pay Scale of

Clerical Grade-I to Technical Grade-B as Loading Inspector with retrospective effect is justified? If so, to what relief is the concerned workman entitled?

2. In this reference notices were duly served upon the parties. But none of the parties turned up nor took any steps. Thereafter several adjournments were granted to him. Then again notices were issued to them but inspite of the issuance of notices they neither appeared nor took any steps. It therefore leads me to an inference that presently there is no dispute between the parties. In the circumstances, I have no other alternative but to pass a ‘No dispute’ Award in this reference.

B. B. CHATTERJEE, Presiding Officer.

नई दिल्ली, 17 सितम्बर, 1998

का.आ. 2030:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन एयर लाइन्स लि० के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं.-2), धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-9-98 को प्राप्त हुआ था।

[सं.एल-11012/13/90-आईआर(विविध)आईआर(सी.-I)]
एस.एस. गुप्ता, डेस्क अधिकारी

New Delhi, the 17th September, 1998

S.O. 2030.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Airlines Ltd. and their workman, which was received by the Central Government on 17-9-1998.

[No. L-11012/13/90-IR(Misc.)IR(C-I)]
S. S. GUPTA, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA : PRESID-
ING OFFICER : CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL : NEW DELHI

I. D. No. 55/91

In the matter of dispute :

BETWEEN

President,
Airlines Cabin Crew Association,
9-D/B, Vikas Puri Extension,
New Delhi-110018.

VERSUS

Managing Director,
Indian Airlines,
Airlines House,
113, Gurudwara Rakab Ganj Road,
New Delhi-110001.

APPEARANCES :

Shri S. L. Hans for the workmen.

Shri Praveen Sharma with Sh. Amitabh for
the Management.

AWARD

The Central Government of the Ministry of Labour vide its Order No. L-11011/13/90-IR(Misc) dated 10-4-91 has referred the following industrial dispute to this Tribunal for adjudication :—

“Whether the management of Indian Airlines is justified in granting 35 per cent increase to Cabin Crew while granting 55 per cent increase for Commanders and 40 per cent increase for Captains w.e.f. 1-11-89 ? If not, to what relief the Cabin Crew is entitled ?”

2. In the statement of claim the Airlines Cabin Crew Association has alleged that it was a registered Trade Union and represents overwhelming majority of Cabin Crew. It has further been alleged that the Management for reasons best known to it has fixed different base rates of meal allowances for different categories of flying crew notwithstanding the fact that the cost of meals is same for everybody. The percentage of increase in rates of meal allowances have been identical for all categories of flying crew in the year 1980 & 1986 as per details below :—

“There was uniform increase of 18 per cent in the year 1980 and 55 percent increase w.e.f. 1-11-86 for Commanders and Cabin Crew. A copy of the Statement giving details of existing meal allowance rates and the revision in the year 1980 & 1986 is annexed and marked as Annexure ‘WZ’.”

The Management vide their circular dated 6th July, 1990 revised the meal allowance and light refreshment rates with effect from 1-11-89 vide circulars No. Fin./Rules/20/3 dt. 6th July, 1990 and Fin./Rules/20/15 dt. 6th July, 1990. As a result the percentage increase in meal allowance/light refreshment allowance for commanders is 55 per cent and 35 per cent increase for the cabin crew. This percentage has been challenged by the Union on the ground that it was discriminatory, unjustified and arbitrary and the percentage increase should have been the same for all the categories. It has also been prayed that the increase in the cost of meals is identical and, therefore, payment of less

percentage of increase to Cabin Crew has no rational basis and, therefore, is bad in law.

3. The Management in its written statement on the other hand has alleged that the matter on the issue of wages and allowance has already been referred by the Government to the National Industrial Tribunal Bombay in December, 1990 vide Govt. Order No. L-11011/3/89-IR(Misc) dated 7-12-1990. The claimants, in this dispute, were allowed as interveners in the matter involved before the Hon'ble National Industrial Tribunal. The claim was liable to be rejected on this score alone.

4. It has further been alleged in the written statement that various categories of employees working with the Management cannot be compared with each other in the matter of salary and allowances. Each category of employees was paid according to the nature of job, degree of technicality and the position held in the hierarchy of the employees. The salary and allowances of the Cabin Crew have to be different from that of the Cockpit Crew. The percentage increase in the rates of meal allowance had been identical for all categories of flying crew. The allowances were revised w.e.f. 1-11-89 by the management which shows the bona-fide intention of the management to keep the rate of the meal allowance in tune with the changing times and rising prices. The percentage increase in the meal allowance for Commandar is 55 per cent, Capt. 40 per cent and First Officer 35 per cent and the Cabin Crew also 35 per cent which was logical and justified. There was no arbitrary or discriminatory action on the part of the management and the reference deserves to be answered in the negative.

5. The Management examined Shri Hari Chand MW1 while the claimant side examined S. D. Kaushik WW1 as their witnesses.

6. I have heard representatives for the parties and have gone through the record.

7. After going through the affidavits and the evidence on oath made by the witnesses and after bearing the representatives for the parties I am of the view that the matter of dispute is covered by the reference already made by the Government to the National Industrial Tribunal in December, 1990 vide Order No. L-11011/3/89-IR (Misc) dated 7-12-1990. The copy of the said Notification has been attached by the Management alongwith the affidavit of its witness and the reference made as under :—

SCHEDULE

“(i) In view of the MOU dated 26-2-1989 signed between the management and the All India Aircraft Engineers' Association, whether the new demands of the employees now raised in respect of matters covered by the MOU dated

26-2-1989 signed between Management of Indian Airlines and All India Aircraft Engineers' Association are legal and justified ?

- (ii) If the answer to (i) is in the affirmative, whether the demands of Aircraft Engineers claiming relativity/parity with Aircraft Engineers of Air India is justified and if so, to what extent and from what date should relief be applicable ?
- (iii) In view of the MOU dated 16th December, 1988 signed between the Management and the IFEA, whether the demand now raised by the Association in respect of matters covered by the MOU dated 16-12-88 signed between the management of IA and the IFEA is legal and justified :
- (iv) If the answer to (iii) is in the affirmative, whether the demand of the Flight Engineers claiming compensation for computing Delta DGT, Delta N-2, Delta Oil pressure and Delta Fuel Flow, is justified and if so, to what extent and from what date should the relief be applicable.
- (v) Whether there should be relativity/parity in the matter of wage structure between Indian Airlines and Air India with regard to comparable categories of workmen performing similar functions and if so, to what extent ?
- (vi) Whether there should be any relativity in the matter of wage structure between various categories of workmen within IA and AI ? If so, how the relativity is to be determined and to what extent ?
- (vii) What allowance, benefits and other service conditions would be relevant for the purpose of deciding the relativity/parity as between the employees of Indian Airlines and Air India as well as between various categories of employees within Indian Airlines and Air India ?
- (viii) What are the categories of employees in AI and IA who should be treated as workmen and non-workmen depending upon the nature of duties, wage structure and other privileges, perquisites and benefits applicable to the said employees ?
- (ix) In view of the prevailing situation and the wage structure within the two airlines and between the two airlines and in order to avoid conflicts on interpretation of the above issues as settled by the Tribunal, the Tribunal is also required to make the award relating to the following aspects of the terms and conditions

of the employees of AI and IA for the period 1-9-90 on wards for a period of 5 years :

- (a) Revised Pay scales and fixation of pay in the revised scales.
- (b) Compensatory and other allowances, excluding Dearness Allowance.
- (c) Hours of work.
- (d) Shift working otherwise than in accordance with standing orders.
- (e) Classification by grades.
- (f) Rationalisation."

8. A perusal of the above reference above that para (vii) relates to allowance, benefits and other service conditions between the all employees of Indian Airlines and Air India as well as between various categories of employees within Indian Airlines and Air India. In para (ix) sub-para (b) the compensatory and other allowance excluding D.A. has also been referred to the said Tribunal, for adjudication :

The claimants before this Tribunal made an application before the National Tribunal for making them to join as a party to the reference and the Hon'ble National Tribunal allowed their application on 12-4-91.

9. The fact that the reference to the Hon'ble National Tribunal was made by the Government prior to the present reference to this Tribunal as stated in that affidavit filed by the management representative but the claimants in reply to this assertion of the management in its affidavit did not admit the same and had tried to evade the same. In my opinion the reference to the National Tribunal fully covers the present dispute and that Tribunal being of higher status it is not appropriate for this Tribunal to adjudicate on this dispute in order to avoid any contradictory decision. In my opinion the reference made was not justified in view of the fact that the dispute has already been covered by the earlier decision of the National Tribunal and the claimants have been allowed to contest and represent their case before the said Tribunal. Reference is answered accordingly. Parties are left to bear their own costs.

GANPATI SHARMA, Presiding Officer

नई दिल्ली, 17 सितम्बर, 1998

का.ग्रा. 2031.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. एयर इंडिया लि. के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबन्ध में निर्विष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं.-2), मुम्बई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-9-98 को प्राप्त हुआ था।

[सं. एल-11012/29/97-आईआर(सी-1)]

एस० एस. गुप्ता, डैस्क अधिकारी

New Delhi, the 17th September, 1998

S.O. 2031.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. 2), Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Air India Ltd. and their workman, which was received by the Central Government on 17-9-98.

[No. L-11012/29/97-IR (C-I)]
S. S. GUPTA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. II,
MUMBAI.

PRESENT :

Shri S. B. Panse, Presiding Officer

REFERENCE NO. CGIT-2/61 OF 1998

Employers in relation to the management of
Air India Ltd.

AND

Their Workmen.

APPEARANCES :

For the Employer : M/s. Bhasin & Co., Advocates
For the workmen : No appearance.

Mumbai, dated 31st August, 1998

AWARD

The Government of India, Ministry of Labour by its Order No. L-11012/29/97-IR (C-I), dated 3rd June, 1998 had referred to the following Industrial Dispute for adjudication.

“Whether the action of the management of Air India Limited in dismissing the services of Shri A. S. Dhoraji Wala, Ex-Sr. Check Flight Pursuer w.e.f- 3-2-1995 is legal and justified ? If not, to what relief is the workman entitled ?”

2. The reference was registered on 17-6-98 and the Secretary issued notices to the concerned parties returnable on 20-7-98. The management was served by acknowledgement receipt Exhibit-3 and the workman by acknowledgement receipt Exhibit-4. On 20-7-98 management remained present but the workman remained absent. Thereafter the matter was adjourned on three occasions. All the three occasions the workman remained absent by the management was present. The workman did not file any statement of claim. It appears that he does not want to proceed with the matter. In the result I pass the following order :

ORDER

The reference is disposed off for want of prosecution.

S. B. PANSE, Presiding Officer



भारत का राजपत्र The Gazette of India

प्रतीकभार है प्रजासत्ताक
PUBLISHED BY AUTHORITY

सं. 42]

नई दिल्ली, शनिवार, अक्तूबर 17, 1998/आश्विन 25, 1920

No. 42]

NEW DELHI, SATURDAY, OCTOBER 17, 1998/ASVINA 25, 1920

इस भाग में सिम्प पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप खण्ड-(ii)

PART II—Section 3—Sub-Section (ii)

केन्द्रीय अधिकारियों (संघ राज्य क्षेत्र प्रशासनों को छोड़कर) द्वारा जारी किये गये आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministry of the Government of India
(Other than the Ministry of Defence)

गृह मंत्रालय

MINISTRY OF HOME AFFAIRS

(पुनर्वास प्रभाग)

(Rehabilitation Division)

नई दिल्ली, 14 सितम्बर, 1998

New Delhi, the 14th September, 1998

का.आ. 2032.—निष्क्रान्त सम्पत्ति प्रबंध अधि-
नियम, 1950 (1950 का 31) की धारा 5 द्वारा प्रदत्त
शक्तियों का प्रयोग करने हुए, केन्द्रीय सरकार एतद्द्वारा
सदस्य (भूमि सुधार) राजस्व बोर्ड, उ. प्र. लखनऊ को
उक्त अधिनियम के द्वारा अथवा उसके अधीन उप महाभि-
रक्षक को सौंपे गए कार्यों के निष्पादन के उद्देश्य से उप-
महाभिरक्षक नियुक्त करती है।

S.O. 2032.—In exercise of the powers conferred
by Section 5 of the Administration of Evacuee Pro-
perty Act, 1950 (31 of 1950), the Central Govern-
ment hereby appoints Member (Land Reforms)
Board of Revenue, U.P., Lucknow as Deputy Custo-
dian General for the purpose of discharging the
duties imposed on such Deputy Custodian General
by or under the said Act.

2. हमें गृह मंत्रालय, पुनर्वास प्रभाग की दिनांक
26-9-1996 की अधिसूचना सं. 1(10)/विशेष कक्ष/85-
एम. एस. II(क) के स्थान पर जारी किया जाता है।

2. This is in supersession of Ministry of Home
Affairs, Rehabilitation Division's Notification No.
1(10)/Spl. Cell/85-SS.II(A) dated 26-9-96.

[संख्या 1/10/विशेष कक्ष/85-एम.एस. II/एस (क)]

[No. 1/10/Spl. Cell/85-SS II/S (A)]

सुरजीत सिंह, अवसर सचिव

SURJIT SINGH, Under Secy.

नई दिल्ली, 14 सितम्बर, 1998

का.आ. 2033.—निष्क्रान्त प्रबन्ध अधिनियम, 1950 (1950 का 31) की धारा 55 की उप धारा 3 द्वारा मुझे महाभिरक्षक के रूप में प्रदत्त शक्तियों का प्रयोग करते हुए मैं, एस. के. चट्टोपाध्याय, महाभिरक्षक एतद्वारा अधिसूचना सं. 1(10)/विशेष कक्ष/85-एस.एस. II(क) तारीख 14-9-98 के तहत उत्तर प्रदेश राज्य के लिए निष्क्रान्त संपत्तियों के उप महाभिरक्षक के रूप में नियुक्त किए गए राजस्व बोर्ड, उत्तर प्रदेश, लखनऊ के सदस्य (भूमि सुधार) को महाभिरक्षक की निम्नलिखित शक्तियां सौंपता हूँ :—

- (i) उक्त अधिनियम की धारा 24 के अन्तर्गत अपील सुनने की शक्तियां, और
- (ii) उक्त अधिनियम की धारा 27 के अन्तर्गत पुनरीक्षण करने की शक्तियां।
- (iii) अधिनियम की धारा 10(2)(0) के अन्तर्गत किसी निष्क्रान्त संपत्ति के हस्तांतरण के अनमोदन की शक्ति।
- (iv) निष्क्रान्त संपत्ति प्रबंध अधिनियम (केन्द्रीय) नियम, 1950 के नियम 30-क के अन्तर्गत मामलों के हस्तांतरण की शक्ति।

2. इसे गृह मंत्रालय, पुनर्वासि प्रभाग की ता. 27-9-1996 की अधिसूचना सं. 1(10)/विशेष कक्ष/85-एस.एस. II(ख) के स्थान पर जारी किया जाता है।

[सं. 1(10)/विशेष कक्ष/85-एस.एस. II/बंदोबस्त (ख)]

एस. के. चट्टोपाध्याय, महाभिरक्षक

New Delhi, the 14th September, 1998

S.O. 2033.—In exercise of the powers conferred on me as Custodian General by sub-Section 3 of Section 55 of the Administration of Evacuee Property Act, 1950 (31 of 1950), I, S. K. Chattopadhyay, Custodian General hereby delegate Member, (Lands Reforms), Board of Revenue, U.P., Lucknow appointed as Deputy Custodian General of Evacuee Property for the State of Uttar Pradesh vide this Ministry's Notification No. 1(10)/Spl. Cell/85-SS.II(A) dated 14th September, 1998 the following powers of the Custodian General :—

- (i) Powers under Section 24 of the said Act to hear appeals; and
- (ii) Powers of revision under Section 27 of the said Act
- (iii) Power of approval of transfer of any evacuee Property under Section 10(2)(0) of the Act;
- (iv) Power of transfer of cases under Rule 30-A of Administration of Evacuee Property Act (Central) Rules, 1950,

2. This supersedes Ministry of Home Affairs, Rehabilitation Division's Notification No. 1(10)/Spl. Cell/85-SS.II(B) dated 27-9-1996.

[No. 1(10)/Spl. Cell/85-SS. II(S(B)]

S. K. CHATTOPADHYAY, Custodian Genl.

नई दिल्ली, 14 सितम्बर, 1998

का.आ. 2034.—निष्क्रान्त संपत्ति प्रबंध अधिनियम, 1950 की धारा 55 (1) द्वारा केन्द्रीय सरकार को प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा निदेश देती है कि उक्त अधिनियम की धारा 38 के अन्तर्गत इसके द्वारा प्रयोज्य कोई भी शक्ति उत्तर प्रदेश राज्य में अनधिग्रहीत ग्रामीण निष्क्रान्त कृषि भूमि, शहरी भूमि, शहरी तथा ग्रामीण निष्क्रान्त संपत्तियों, बुकानों, स्कूलों, खाली प्लॉटों से संबंधित अधिनियम के अधीन दंडनीय अपराधों के संबंध में सदस्य (भूमि सुधार) राजस्व बोर्ड, उत्तर प्रदेश लखनऊ द्वारा भी प्रयोज्य होंगी।

2. इसे अधिसूचना सं. 1(10)/विशेष कक्ष/85-एस.एस. II/एस. (ग) तारीख 27-9-1996 के स्थान पर जारी किया जाता है।

[सं. 1(10)/विशेष कक्ष/85-एस.एस. II/एस. (ग)]

सुरजीत सिंह, अव्वर सचिव

New Delhi, the 14th September, 1998

S.O. 2034.—In exercise of the powers conferred on the Central Government under Section 55(1) of the Administration of Evacuee Property Act, 1950, the Central Government hereby direct that any power exercisable by it under Section 38 of the said Act shall be exercisable also by the Member (Lands Reforms) Board of Revenue, U.P., Lucknow in respect of the offences punishable under the Act relating to the unacquired rural evacuee agricultural lands urban lands, rural and urban evacuee properties, shops, sites, vacant plots within that State.

2. This supersedes notification No 1(10)/Spl Cell/85-SS. II/S(C) dated 27th September, 1996.

[No. 1(10)/Spl. Cell/85-SS. II(S(C)]

SURJIT SINGH, Under Secy.

नई दिल्ली, 14 सितम्बर, 1998

का. आ. 2035.—विस्थापित व्यक्ति (प्रतिकर तथा पुनर्वासि) अधिनियम, 1954 (1954 का 44) की धारा 34 की उप धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा यह निदेश देती है कि उक्त अधिनियम की धारा 33 के अन्तर्गत इसके द्वारा प्रयोग की जाने वाली शक्तियां, अध्यक्ष, राजस्व बोर्ड, उत्तर प्रदेश, लखनऊ द्वारा भी उनके अपने कार्य के अतिरिक्त उत्तर प्रदेश राज्य में क्षतिपूर्ति फूल के भाग के तौर पर भूमि एवं संपत्तियों हेतु प्रयोज्य होंगी।

2. इसे अधिसूचना संख्या-1(10)/विशेष सैल/85-एस. एस.-II/एस दिनांक 27-9-96 के स्थान पर जारी किया जाता है।

[संख्या-1(10)/विशेष सैल/85-एस. एस.-II/एस. (घ)]

सुरजीत सिंह, अवसर सचिव

New Delhi, the 14th September, 1998

S.O. 2035.—In exercise of the powers conferred by Sub-Section (i) of Section 34 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954) the Central Government hereby directs that any powers exercisable by it under Section 33 of the said Act shall be exercisable also by the Chairman, Board of Revenue, U.P., Lucknow in addition to his own duties, in respect of the lands and properties following part of the Compensation Pool within the State of Uttar Pradesh.

2. This Notification supersedes Notification No. 1(10)/Spl. Cell/85-SS. II/S dated 27th September, 1996.

[No. 1(10)/Spl. Cell/85-SS. II/S(D)]

SURJIT SINGH, Under Secy.

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय
(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 28 सितम्बर, 1998

का.आ. 2036.—केन्द्रीय सरकार, दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम संख्या 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, बिहार सरकार की गृह (पुलिस विभाग) की दिनांक 11-8-1998 की अधिसूचना संख्या-3/विधि-6014/98/एच. (पी) द्वारा प्राप्त सहमति से एतद्वारा श्री अजीत सरकार, विधायक की हत्या के संबंध में पुलिस चौकी छांटाची हाट, जिला पूर्णिया (बिहार) में दर्ज मामला सं. 230/98 और उपर्युक्त मामले के संबंध में किये गये प्रयत्न, दुष्प्रेरणों तथा छानबीनों के अन्वेषण, और उसी तथ्य या तथ्यों से उत्पन्न होने वाले वैसे ही संभव्यबहार के अनुक्रम में किया गया अथवा किये गये कोई अन्य अपराध/अपराधों के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता को विस्तार संपूर्ण बिहार राज्य पर करती है।

[संख्या 228/39/98-ए.वी.डी.-II]

हरि सिंह, अवसर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES & PENSIONS

(Department of Personnel & Training)

New Delhi, the 28th September, 1998

S.O. 2036.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government, with the consent of State Government of Bihar vide Home (Police Department) Notification No. 3/Vi-6014/98/H(P) dated 11-8-1998 hereby extends the powers jurisdiction of the members of the Delhi Special Police Establishment to the whole of

the State of Bihar for investigation of offences of Case No. 230/98 of Police Station Khajanchi Hat, District Purnea (Bihar) relating to the murder of Sh. Ajit Sarkar, MLA and attempt, abetment and conspiracy in relation to or in connection with the offences of above said case and any other offence/offences committed in the course of the same transaction or arising out of the same facts.

[No. 228/39/98-AVD. II]

HARI SINGH, Under Secy.

CORRIGENDUM

New Delhi, the 28th September, 1998

S.O. 2037.—In S.O. No. 930 dated 21st April, 98 published in the Gazette of India Part II, Section III, Sub-Section (ii) on May 09, 1998, in line 8 for the bracket and words (North Eastern Regional Office) read (North Western Regional office).

[No. 11011/3/93-Hindi-II]

A. K. BHATTARAI, Director (Admn.)

नई दिल्ली, 5 अक्टूबर, 1998

का.आ. 2038.—केन्द्रीय सरकार एतद्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए श्री गोपाल सुब्रामण्यम, वरिष्ठ अधिवक्ता, दिल्ली को महानगर मजिस्ट्रेट/अवर जिला और सेशन न्यायाधीश/जिला और सेशन न्यायाधीश, दिल्ली/नई दिल्ली के न्यायालय में भाभला सं. आरसी 3(एस)/97/सीबी आई/एसआईसी-4/नई दिल्ली (उपहार सिनेमा मामला) तथा अपील अथवा पुनरीक्षण न्यायालय में अपीलों, पुनरीक्षणों और किसी अन्य न्यायालय में उनसे संबंधित अथवा आनुषंगिक किसी अन्य विषय का संचालन करने के लिये विशेष लोक अधियोजक के रूप में नियुक्त करती है।

[सं. 225/19/98-ए.वी.डी.-II]

हरि सिंह, अवसर सचिव

New Delhi, the 5th October, 1998

S.O. 2038.—In exercise of the powers conferred by Sub-Section (8) of Section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Shri Gopal Subramaniam, Sr. Advocate, Delhi as Special Public Prosecutor for conducting Case No. RC-3 (S)/97/CBI/SIC-IV New Delhi (Uphaar Cinema case) in the Court of Metropolitan Magistrate/Additional District & Sessions Judge/District & Session Judge, Delhi/New Delhi and appeals, revisions in the appellate or revisional Court and any other matter connected therewith or incidental thereto in any other Court.

[No. 225/19/98-AVD. II]

HARI SINGH, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

(बिक्री कर अनुभाग)

आदेश

नई दिल्ली, 21 सितम्बर, 1998

स्टाम्प

का.आ. 2039.—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उप-धारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा मै. टूरिज्म फाइनेंस कॉर्पोरेशन ऑफ इंडिया लि., नई दिल्ली को मात्र चौंसठ लाख और इक्कीस हजार रुपये का समेकित स्टाम्प शुल्क अदा करने की अनुमति देती है, जो उक्त कॉर्पोरेशन द्वारा जारी किए जाने वाले मात्र चौंसठ करोड़ और इक्कीस लाख रुपये के कुल मूल्य के एक-एक हजार रुपये के असुरक्षित 14.5% टी.एफ.सी. आई. बंधपत्रों (श्रृंखला XVIII) के रूप में वर्णित प्रोमिसरी नोटों के स्वरूप वाले बंधपत्रों पर स्टाम्प-शुल्क के कारण प्रभार्य है।

[सं. 33/98-स्टाम्प/फा.सं. 15/25/98-बि.क.]

अपर्णा शर्मा, अव्वर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

(Sales Tax Section)

ORDER

New Delhi, the 21st September, 1998

STAMPS

S.O. 2039.—In exercise of the powers conferred by clause (b) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby permits M/s. Tourism Finance Corporation of India Ltd., New Delhi to pay consolidated stamp duty of rupees sixty four lakhs and twenty one thousands only chargeable on account of the stamp duty on bonds in the nature of promissory notes described as Unsecured 14.5% TFCI Bonds (Series-XVIII) of rupees one thousand each aggregating to rupees sixty four crores and twenty one lakhs only to be issued by the said corporation.

[No. 33/98-Stamp/F. No. 15/25/98-ST]

APARNA SHARMA, Under Secy.

(सेन्ट्रल इकॉनॉमिक इन्टेलीजेन्स ब्यूरो)

आदेश

नई दिल्ली, 28 सितम्बर, 1998

का.आ. 2040.—अतः संयुक्त सचिव, भारत सरकार जिन्हें विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा की उप-धारा (1) के अन्तर्गत विशेष रूप से शक्ति प्रदान की गई है, ने उक्त

उप-धारा के अधीन आदेश फाइल सं. 673/41/98-सी.यू.-एम.-VIII, दिनांक 31-7-98 जारी किया और यह निर्देश दिया कि श्री विपिन कालड़ा।

पता : 124, आनन्द विहार (पीतमपुरा) डा. खा. शकूर बस्ती, विल्ली-34

को निरुद्ध कर लिया जाए और तिहाड़ कारागार, नई दिल्ली में अभिरक्षा में रखा जाए जिससे कि उन्हें भविष्य में चीजों की तस्करी करने से रोका जा सके।

2. अतः केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या स्वयं को छिपा रखा है जिससे कि यह आदेश निष्पादित नहीं किया जा सकता।

3. अतः अब उक्त अधिनियम की धारा 7 की उप-धारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्द्वारा पूर्वोक्त व्यक्ति को यह निर्देश देती है कि वह शासकीय राजपत्र में इस आदेश के प्रकाशित होने के 7 दिन के भीतर पुलिस आयुक्त, नई दिल्ली के सम्मुख उपस्थित हो।

[फा.सं. 673/41/98-सी.यू.-एम.-VIII]

ए. के. सिंगल, बरिष्ठ तकनीकी अधिकारी

(Central Economic Intelligence Bureau)

ORDER

New Delhi, the 28th September, 1998

S.O. 2040.—Whereas the Joint Secretary to the Government of India specially empowered under sub-section (1) of Section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued Order F.No. 673/41/98 Cus.VIII, dated 31-7-1998 under the said sub-section directing that Shri Vipin Kalra, 124 Anand Vihar (Pitampura) P. O. Shakurpur basti, Delhi-34 be detained and kept in custody in the Central Prison, Tihar Jail, New Delhi view to preventing him in future from smuggling goods.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or has been concealing himself so that the Order cannot be executed.

3. Now, therefore, in exercise of the powers conferred by clause (b) of sub-section (1) of Section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear

before the Commissioner of Police, New Delhi, within 7 days of the publication of this Order in the Official Gazette.

[F. No. 673/41/98-Cus. VIII]
A. K. SINGHAL, Senior Tech. Officer

आदेश

नई दिल्ली, 28 सितम्बर, 1998

का. आ. 2041.—अतः संयुक्त सचिव, भारत सरकार जिन्हें विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उप-धारा (1) के अन्तर्गत विशेष रूप से शक्ति प्रदान की गई है, ने उक्त उप-धारा के अधीन आदेश फाइल सं. 673/42/98-सी-यू-एस. VIII, दिनांक 31-7-98 जारी किया और यह निर्देश दिया श्री संदीप भास्कर, पता: 356, गौतम नगर, नई दिल्ली को निरुद्ध कर लिया जाए और तिहाड़ कारागार नई दिल्ली में अभिरक्षा में रखा जाए जिससे कि उन्हें भविष्य में चीजों की तस्करी करने से रोका जा सके।

2. अतः केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या स्वयं को छिपा रखा है जिससे कि यह आदेश निष्पादित नहीं किया जा सकता।

8. अतः अब उक्त अधिनियम की धारा 7 की उप-धारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा पूर्वोक्त व्यक्ति को यह निर्देश देती है कि वह शासकीय राजपत्र में इस आदेश के प्रकाशित होने के 7 दिन के भीतर पुलिस आयुक्त, नई दिल्ली के सम्मुख उपस्थित हो।

[फा. सं. 673/42/98-सी. यू. एस.-VIII]

ए. के. सिंगल, वरिष्ठ तकनीकी अधिकारी

ORDER

New Delhi, the 28th September, 1998

S.O. 2041.—Whereas the Joint Secretary to the Government of India specially empowered under sub-section (1) of Section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued Order F. No. 673/42/98 Cus. VIII, dated 31-7-1998 under the said sub-section directing that Shri Sandeep Bhasker, 356, Gautam Nagar, New Delhi be detained and kept in custody in the Central Prison, Tihar Jail, New Delhi to view preventing into in future from smuggling goods.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or has been concealing himself so that the Order cannot be executed.

3. Now, therefore, in exercise of the powers conferred by clause (b) of sub-section (1) of Section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, New Delhi, within 7 days of the publication of this Order in the official gazette.

[F. No. 673/42/98-Cus. VIII]

A. K. SINGHAL, Senior Tech. Officer

आदेश

नई दिल्ली, 28 सितम्बर, 1998

का. आ. 2042.—अतः संयुक्त सचिव, भारत सरकार जिन्हें विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उप-धारा (1) के अन्तर्गत विशेष रूप से शक्ति प्रदान की गई है, ने उक्त उप-धारा के अधीन आदेश फाइल सं. 673/43/98 सी-यू-एस. VIII, दिनांक 31-7-98 जारी किया और यह निर्देश दिया कि श्री अजय राजपाल। पता : ए-1/4, प्रथम तल, मॉडल टाउन, नई दिल्ली को निरुद्ध कर लिया जाए और तिहाड़ कारागार, नई दिल्ली में अभिरक्षा में रखा जाए जिससे कि उन्हें भविष्य में चीजों की तस्करी करने से रोका जा सके।

2. अतः केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या स्वयं को छिपा रखा है जिससे कि यह आदेश निष्पादित नहीं किया जा सकता।

3. अतः अब उक्त अधिनियम की धारा 7 की उप-धारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा पूर्वोक्त व्यक्ति को यह निर्देश देती है कि वह शासकीय राजपत्र में इस आदेश के प्रकाशित होने के 7 दिन के भीतर पुलिस आयुक्त, नई दिल्ली के सम्मुख उपस्थित हो।

[फा. सं. 673/43/98/सी. यू. एस.-VIII]

ए. के. सिंगल, वरिष्ठ तकनीकी अधिकारी

ORDER

New Delhi, the 28th September, 1998

S.O. 2042.—Whereas the Joint Secretary to the Government of India specially empowered under sub-section (1) of Section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued Order F. No. 673/43/98 Cus. VIII, dated 31-7-1998 under the said sub-section directing that Shri Ajay Rajpal, A-1/4, First Floor, Model Town, New Delhi be detained and kept in custody in the Central Prison, Tihar Jail, New Delhi view to preventing him in future from smuggling goods.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or has been concealing himself so that the Order cannot be executed.

3. Now, therefore, in exercise of the powers conferred by clause (b) of sub-section (1) of Section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, New Delhi, within 7 days of the publication of this Order in the Official Gazette.

[F. No. 7/17/96-B.O.]

A. K. SINGHAL, Senior Tech. Officer

(आर्थिक कार्य विभाग)

(बीमा प्रभाग)

नई दिल्ली, 28 सितम्बर 1998

का.आ. 2043.—भारतीय जीवन बीमा निगम में सदस्य के रूप में दिनांक 19 नवम्बर 1996 के अधिसूचना सं. 15(3) 92-बीमा-5 तहत नियुक्त श्री न्यायमूर्ति बी. केटीन (अवकाश प्राप्त) परीक्षक प्रेस बिल्डिंग, द्वितीय तल, 35 दलाल स्ट्रीट, बंबई का, त्यागपत्र तत्काल प्रभाव से एतद्वारा स्वीकार किया जाता है।

[फा. सं. 15/43/90-बीमा-V]

आर. रंगनाथ, निदेशक

(Department of Economic Affairs)

(Insurance Division)

New Delhi, the 28th September, 1998

S.O. 2043.—The resignation of Shri Justice B. Lenin (Retd.) Examiner Press Building, 2nd Floor, 35, Dalal Street, Bombay a Member of the Life Insurance Corporation of India appointed vide Notification No. 15/3/92-Ins. V dated 19th November, 1996 is hereby accepted with immediate effect.

[F. No. 15/4/90-Ins. V]

R. RENGANATH, Director

(राजस्व विभाग)

केन्द्रीय उत्पाद शुल्क आयुक्त का कार्यालय

कोयम्बतूर, 25 सितम्बर, 1998

संख्या 8/98-सीमा शुल्क (एन टी)

का.आ. 2044.—सीमा शुल्क अधिनियम, 1962 की धारा 152 खण्ड (ए) के अन्तर्गत भारत सरकार, वित्त मंत्रालय, राज्य विभाग, नई दिल्ली के दिनांक 1 अक्टूबर,

1994 के अधिसूचना संख्या 33/94 सीमा शुल्क (एनटी) के अधीन अधोहस्ताक्षरी की प्रत्योगित शक्तियों का प्रयोग करते हुए, मैं, ए.के. मेहता, आयुक्त, सीमा शुल्क एवं केन्द्रीय उत्पाद शुल्क, कोयम्बतूर एतद्वारा तमिलनाडु राज्य, कोयम्बतूर जिला, कोयम्बतूर उत्तर तालूक के सरवनमपट्टी ग्राम की सीमा शुल्क अधिनियम, 1962 की धारा 9 के अन्तर्गत 100%निर्यातोन्मुख एकक (ई.ओ.यू.) के गठन के उद्देश्य से भाण्डागारण स्टेशन के रूप में घोषित करता हूँ। जो कि इलेक्ट्रॉनिक्स विभाग के साफ्ट वेयर तकनालजी पार्क आफ इंडिया द्वारा अनुमोदित साफ्ट वेयर तकनालजी पार्क योजना के अन्तर्गत है।

[फाइल पत्र सं. VIII/40/22/98-सीमा शुल्क]

ए.के. मेहता, आयुक्त

(Department of Revenue)

OFFICE OF THE COMMISSIONER OF

CUSTOMS AND CENTRAL EXCISE

Coimbatore, the 25th September, 1998

NO. 8/98 CUSTOMS (NT)

S.O. 2044.—In exercise of the powers delegated to the undersigned vide Notification No. 33/94-Cus. (NT) dated 1st July, 1994 by the Government of India, Ministry of Finance, Department of Revenue, New Delhi under clause (a) of Section 152 of the Customs Act, 1962, I, A. K. MEHTA, COMMISSIONER OF CUSTOMS AND CENTRAL EXCISE, COIMBATORE, hereby declare SARAVANAMPATTI VILLAGE, COIMBATORE NORTH TALUK, COIMBATORE DISTRICT, State of Tamilnadu, to be a warehousing station under Section 9 of the Customs Act, 1962 for the purpose of setting up of 100 per cent Export Oriented Unit under Software Technology Park Scheme as approved by the Software Technology Park of India, Chennai, under the Department of Electronics.

[File C. No. VII/40/22/98-CUS. POL.]

A. K. MEHTA, Commissioner

(आर्थिक कार्य विभाग)

(वैकिंग प्रभाग)

नई दिल्ली, 30 सितम्बर, 1998

का.आ. 2045.—रुग्ण औद्योगिक कम्पनी (विशेष उपबन्ध) अधिनियम, 1985 (1986 का 1) की धारा 6 की उप धारा (2) के भाग 9(ख) धारा 4 की उपधारा

(2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्द्वारा श्री एस.एल. कपूर को 1 अक्टूबर, 1998 से 31 अक्टूबर, 1998 तक की अवधि के लिए औद्योगिक तथा वित्तीय पुनर्निर्माण बोर्ड के सदस्य के रूप में नियुक्त करती है।

[सं. 7/17/96-बी०ओ०I]

के० के० मंगल, अवसर सचिव

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 30th September, 1998

S.O. 2045.—In exercise of the powers delegated to sub-section (2) of Section 4 read with sub-section (2) of Section 6 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986), the Central Government hereby reappoints Shri S. L. Kapur, as a Member of the Board for Industrial and Financial Reconstruction from 1st October, 1998 to 31st October 1998.

[F. No. 673/4/98-Cus.-VIII]

K. K. MANGAL, Under Secy.

विवेश मंत्रालय

(कौंसलर अनुभाग)

नई दिल्ली, 24 सितम्बर, 1998

का.आ. 2046.—राजनयिक कौंसली अधिकारी (शपथ एवम्, शुल्क) अधिनियम, 1948 (1948 का 41वां) द्वारा 2 के अंक (क) के अनुसरण में केन्द्रीय सरकार एतद्द्वारा भारत का दूतावास रियाद में सहायक श्री फिलिप टोपो एवं एल.डी.सी. श्री शिवराम को 23-09-98 से सहायक कौंसली अधिकारी का कार्य करने के लिए प्राधिकृत करती है।

[सं. टी-4330/1/98]

एन.यू. अविराचन, अवसर सचिव (कोस)

MINISTRY OF EXTERNAL AFFAIRS

(Consular Section)

New Delhi, the 24th September, 1998

S.O. 2046.—In pursuance of the Clause (a) of Section 2 of the Diplomatic and Consular Officers

(Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby authorises Shri Philip Toppo, Assistant and Shri Shiv Ram, LDC in the Embassy of India, Riyadh to perform the duties of Assistant Consular Officer with effect from 23-09-1998.

[No. T-4330/1/98]

N. U. AVIRACHEN, Under Secy. (Cons)

वाणिज्य मंत्रालय

(विवेश व्यापार महाविभाग)

नई दिल्ली, 6 अक्टूबर, 1998

का.आ. 2047.—मै रेमण्ड सेपेटिक लि., ए-10/ए-27, यू पी एस आई सी इन्डस्ट्रियल एरिया, करछना, अलाहाबाद-21301 को पूंजीगत माल के आयात के लिए 116,27,68,200/-रु० (एक सौ सीलह करोड़ सताइस लाख अड़सठ हजार और दो सौ रुपये केवल) के लिए आयात लाइसेंस सं० पी/सी जी/2158082 दिनांक 20-9-95 मंजूर किया गया था।

2. फर्म ने ऊपर उल्लिखित लाइसेंस की डुप्लीकेट आयात लाइसेंस जारी करने के लिए इस आधार पर आवेदन किया है कि आयात लाइसेंस खो गया है/अस्थानस्थ हो गया है। आगे यह भी कहा गया है कि लाइसेंस को मुम्बई सीमा शुल्क सदन के पास पंजीकृत कराया गया था और लाइसेंस के मूल्य को 112,59,85,920/—रु० के लिए उपयोग में लाया गया था।

3. अपने कथन के समर्थन में लाइसेंसधारी ने स्टाम्प पेपर पर हलफनामा प्रस्तुत किया है। तदनुसार मैं मन्तुष्ट हूँ कि मूल आयात लाइसेंस सं० पी/सी जी/2156082 दिनांक 20-9-95 फर्म द्वारा खो गई है या अस्थानस्थ हो गई है। यथासंशोधित आयात (नियंत्रण) अधिनियम 1955 दिनांक 7-12-1955 की उपधारा 9 (सीसी) के अन्तर्गत प्रदत्त शक्तियों का प्रयोग करते हुए मैं, रेमण्ड सेपेटिक लि. अलाहाबाद को जारी किए गए उक्त मूल आयात लाइसेंस को एतद्द्वारा निरस्त किया जाता है।

4. उक्त लाइसेंस का डुप्लीकेट आयात लाइसेंस पार्टी को अलग से जारी किया जा रहा है।

[का. सं. 18/240/ए.एम. 96/ई. पी. सी. जी. —II/293]

के. चन्द्रामती, उप महाविदेशक, विवेश व्यापार

MINISTRY OF COMMERCE

(Office of Directorate General of Foreign Trade)

New Delhi, the 6th October, 1998

S.O. 2047.—M/s. Raymond Synthetics Ltd., A-10/A-27, UPSIC Industrial Area, Kailash Nagar, Karchana, Allahabad-212301 were granted an import licence No. P/CG/2156082 dated 20-9-95 for Rs. 116,27,68,200/- (Rupees One hundred Sixteen Crores Twenty Seven Lakhs Sixty Eight Thousand and Two Hundred Only) for import of capital goods.

2. The firm has applied for issue of duplicate import licence of the above mentioned licence on the ground that the import licence has been lost or misplaced. It has further been stated that the licence was registered with Mumbai Custom House and the value of the licence has been utilised for Rs. 112,59,85,924/-.

3. In support of their contention, the licensee has filed an affidavit on Stamped Paper. I am accordingly satisfied that the original import licence No. P/CG/2156082 dated 20-9-95 has been lost or misplaced by the firm. In exercise of the powers conferred under Sub-Clause 9(cc) of the Import (Control) Order, 1955 dated 7-12-1955, as amended the said original import licence issued to M/s. Raymond Synthetics Ltd., Allahabad is hereby cancelled.

4. A duplicate import licence of the said licence is being issued to the party separately.

[F. No. 18/240/AM/96/EPCG-II/293]

K. CHANDRAMATHI, Dy. Director
General of Foreign Trade

खाद्य और उपभोक्ता मामले मंत्रालय

(उपभोक्ता मामले विभाग)

नई दिल्ली, 6 अक्टूबर, 1998

का.आ. 2048.—केन्द्रीय सरकार, भारतीय मानक ब्यूरो नियम, 1987 के नियम 4 के उपनियम (1) के साथ पठित, भारतीय मानक ब्यूरो अधिनियम, 1986 (1986 का 63) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, लोक सभा के सदस्य सर्वश्री आनन्द रत्न मौर्य, के. सी. कोण्डैया और सं. वेणुगोपाल को लोक सभा के रिक्त पदों पर ब्यूरो में प्रतिनिधित्व करने के लिए उनको भारतीय मानक ब्यूरो के सदस्य के रूप में नियुक्त करती है और इस प्रयोजन के लिए भारत सरकार के खाद्य और उपभोक्ता मामले मंत्रालय (उपभोक्ता मामले विभाग) की

अधिसूचना स. का.आ. 278(अ), तारीख 31 मार्च, 1987 में निम्नलिखित संशोधन करती है, अर्थात् :—

उक्त अधिसूचना के क्रम स. 5 से 7 और उसमें संबंधित प्रविष्टियों के स्थान पर निम्नलिखित क्रम सं. और प्रविष्टियां रखी जाएंगी, अर्थात् :—

“5. श्री आनन्द रत्न मौर्य, सदस्य
सदस्य, लोक सभा

6. श्री के. सी. कोण्डैया सदस्य
सदस्य, लोक सभा

7. श्री के. वेणुगोपाल, सदस्य
सदस्य, लोक सभा”

[फा.सं. 2/15/97-बी.आई.एम.]

अनुराग सक्सेना, अवर सचिव

MINISTRY OF FOOD AND CONSUMERS AFFAIRS

(Department of Consumer Affairs)

New Delhi, the 6th October, 1998

S.O. 2048.—In exercise of the powers conferred by section 3 of the Bureau of Indian Standards Act, 1986 (63 of 1986) read with rule 3 and sub-rule (1) of rule 4 of the Bureau of Indian Standards Rules, 1987, the Central Government hereby appoints, S/Shri Anand Ratna Maurya, K. C. Kondaiah and K. Venugopal, Members Lok Sabha, to be members of the Bureau of Indian Standard, against the unfilled vacancies from the House of the People to represent in the Bureau and for that purpose makes the following amendment in the notification of the Government of India in the Ministry of Food and Consumer Affairs (Department of Consumer Affairs) number S.O. 278(E), dated, the 31st March, 1987, namely :—

In the said notification, for serial numbers 5 to 7 and the entries relating thereto; the following serial numbers and entries shall be substituted, namely :—

“5. Shri Anand Ratna Maurya, — Member.
Member,
Lok Sabha.

6. Shri K. C. Kondaiah, — Member.
Member,
Lok Sabha.

7. Shri K. Venugopal, — Member.
Member,
Lok Sabha.

[File No 2/15/97-BIS]

ANURAG SAXENA, Under Secy.

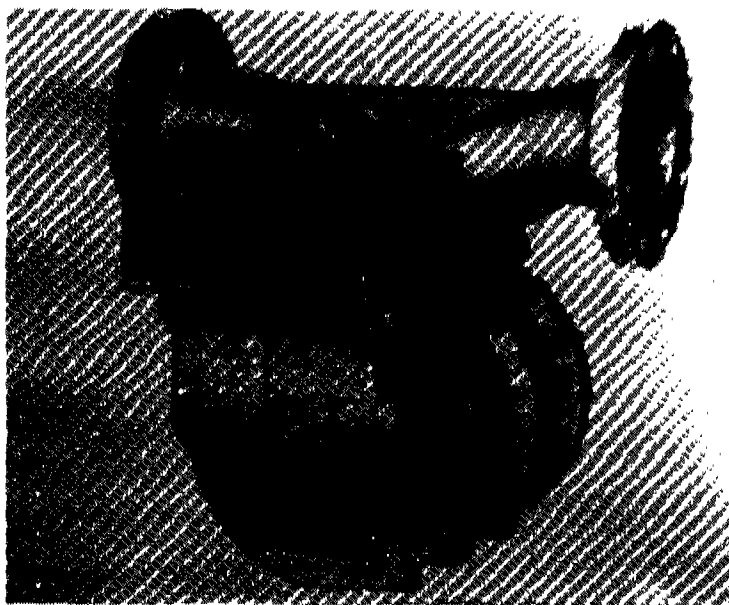
ख़ाद्य और उपभोक्ता मामले मंत्रालय

(उपभोक्ता मामले विभाग)

नई दिल्ली, 9 अक्टूबर, 1998

का. आ. 2049.— केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत की गई रिपोर्ट पर विचार करने के पश्चात्, समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और संभावना यह है कि अविरत उपयोग की अवधि में भी उक्त माडल यथार्थता बनाए रखेगा और परिवर्तित दशाओं में उपयुक्त सेवा देता रहेगा;

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, "द्रव (पानी से भिन्न) के लिए, मीटर के माडल के "टी एल" शृंखला जिसका विनिर्माण मैसर्स टेलटेक इन्स्ट्रुमेंटेशन प्राइवेट, कामावक्ला चेंबर, प्रथम तल, सर फिरोजगाह मेहता रोड, मुंबई-400001 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई.एन.डी./11/98/27 समनुदेशित किया है, अनुमोदन प्रमाण पत्र प्रकाशित करती है:



आकृति

उक्त माडल एक निश्चयात्मक विस्थापन मीटर है। इसकी प्रवाहदर 136 से 1364 लीटर प्रति मिनट है। यह 200 सीएस टी तक श्यानता वाले द्रव के परिमाण मापने के लिए उपयोग में लाया जाता है। माडल का संपादन और प्रवाह रेंज निम्नलिखित पूर्व अपेक्षाओं द्वारा शासित है—(i) अंश शोधन पेंच इस प्रकार है कि अंश शोधन स्थल पर भी व्यवस्थापन हो सके, जहां मापन तरल प्रवाह माध्यम है। (ii) तरल मापन के लिए विनिर्दिष्ट यथार्थता के साथ प्रवाह श्रेणी विनिर्देश अवधारित किया गया है। (iii) उसी मीटर को अंशशोधन पेंच के समायोजन के बिना विभिन्न श्यानताओं वाले तरलों के लिए उपयोग में नहीं लाया जा सकता है।

[फा. सं. डब्ल्यू एम-21 (92)/96]
पी.ए. कृष्णामूर्ति, निदेशक (विधिक माप विज्ञान)

MINISTRY OF FOOD AND CONSUMER AFFAIRS**(Department of Consumer Affairs)**

New Delhi, the 9th October, 1998

S.O. 2049 .—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weight and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the “Meter for liquid (other than water)” of ‘TL’ series manufactured by M/s Teletch Instrumentation Private, Kamawala Chambers, 1st Floor, Sir Phirozesthan Mehta Road, Mumbai-400001, and which is assigned the approval mark IND/11/98/27 :



The said Model is a positive displacement Meter. Its flowrate is 136 to 1364 litre per minute. It is used for measuring the quantity of liquid with viscosity upto 200 cst. The performance and flow range of the model is governed by the following pre-requisites. (i) the vcalibration and setting of the calibration screw is to done at site with the metering fluid as flow medium. (ii) the flow range specification with the specified accuracy to be determined for the metering fluid. (iii) the same meter can not be used for fluids with different viscosities without adjusting the calibration screw.

[F. No. WM-21 (92)/96]

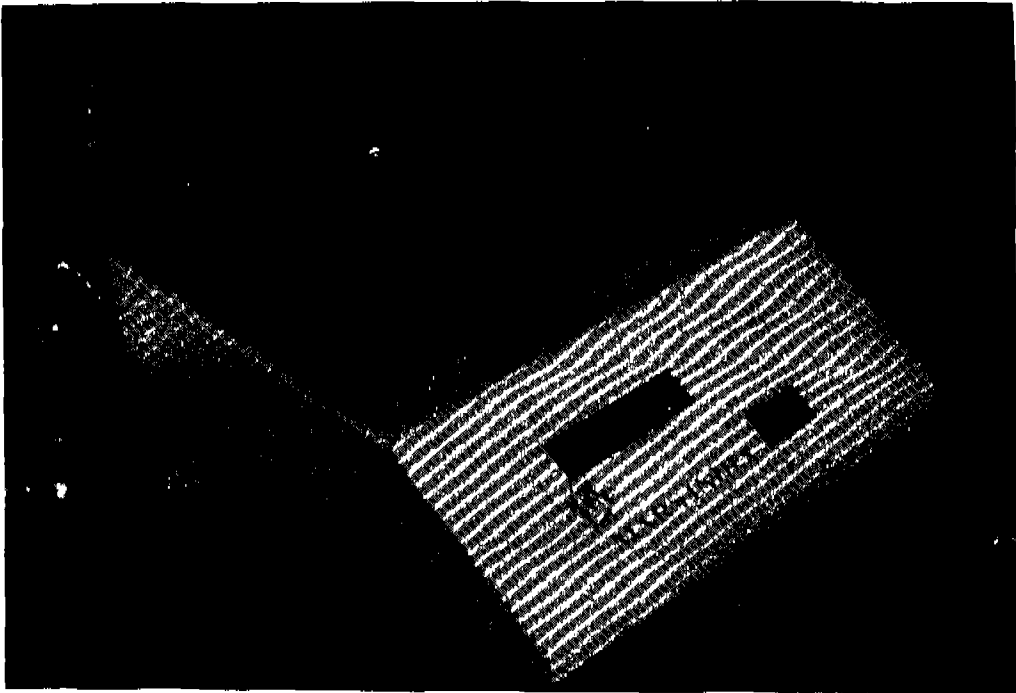
P.A. KRISHNAMURTHI, Director Legal Metrology

नई दिल्ली, 13 अक्टूबर, 1998

का. आ. 2050.—केन्द्रीय सरकार का विहित प्राधिकारी द्वारा उसे प्रस्तुत की गई रिपोर्ट पर विचार करने के पश्चात्, समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि वह लगातार प्रयोग की अवधि में यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा देता रहेगा;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, “एम टी” सिरीज के वर्ग 2 की यथार्थता (उच्च यथार्थता) “मार्स इंडिया” के ब्रान्ड नाम के टाईप के स्वतः सूचक गैर-स्वचालित तोलन उपकरण के माडल का (जिसे इसमें इसके पश्चात् माडल कहा गया है) जिसका विनिर्माण मैसर्स मार्स इंडिया, 6 प्रथम तल, सुरधारा कम्पलैक्स, अहमदाबाद-382350 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई.एन.डी./09/98/12 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र प्रकाशित करती है।

माडल (आकृति देखिए) उस उच्च यथार्थता (यथार्थता वर्ग 2) का तोलन उपकरण है जिसकी अधिकतम क्षमता 11 किलोग्राम और न्यूनतम क्षमता 50 ग्राम है। सत्यापन मापमान अन्तर 1 (ई) ग्राम है। इसमें एक टेयर युक्ति है जिसका व्यकलनात्मक प्रतिधारण टेयर प्रमात्र 100 प्रतिशत है। आधार और प्लेटफार्म मृदु इस्पात के हैं। भारग्राही वर्गाकार आकृति का है जिसका पार्श्व 275 मि.मी. है। प्रकाशउत्सर्जन हायोड संप्रदर्श तोल परिणाम उपदर्शित करता है। यह उपकरण 230 वोल्ट, 50 हर्टज के प्रत्यावर्ती धारा विद्युत प्रदाय पर प्रचालित होता है।



आकृति

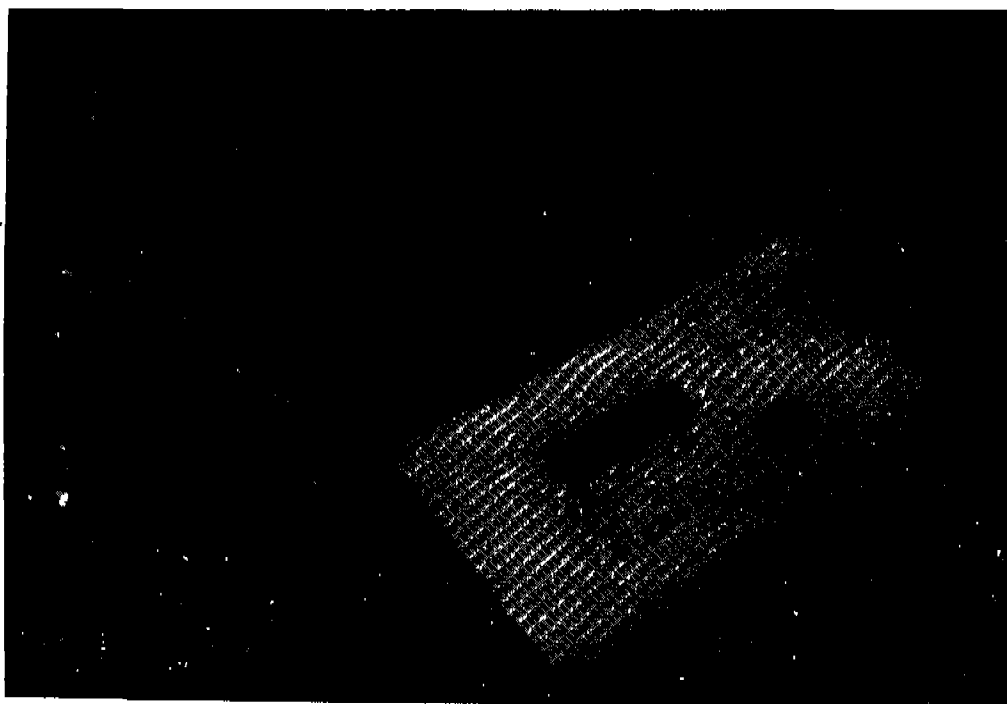
आगे, केन्द्रीय सरकार, उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि माडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत के अनुसार और उसी सामग्री से, जिससे अनुमोदित माडल का विनिर्माण किया गया है विनिर्मित समरूप मेक, यथार्थता और उसी सिरीज के कार्यकरण वाले तोलन उपकरण भी है जिनके सत्यापन मापमान अन्तर की अधिकतम संख्या (एन) 100000 से कम अथवा समतुल्य है (एन) ≤ 100000 (साथ ही “ई” मूल्य 1, 2 या 5 सिरीज का है)।

New Delhi, the 13th October, 1998

S.O. 2050.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain the accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the self-indicating, non-automatic, electronic table top weighing machine of type "MT-101" series of class II accuracy (high accuracy) and with brand name "MARS INDIA" (hereinafter referred to as the Model) manufactured by M/s Mars India, 6, first Floor, Surdhara Complex, Opp. Shreeji High School, Near Diamond Mills, Nikol Gam Road, Ahmedabad-382350, and which is assigned the approval mark IND/09/98/12;

The Model (see figure) is a high accuracy (accuracy class II) weighing instrument with a maximum capacity of 11 kg and minimum capacity of 50g. The verification scale interval (e) is 1g. It has a tare device with a 100 per cent subtractive retained tare effect. The load receptor is of square section of side 275 millimetre. The instrument operates on 230 volts and frequency 50 hertz, alternate current power supply.



Model

Further, in exercise of the powers conferred by sub-section (12) of the said section, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum number of verification scale intervals (n) less than or equal to 100000 ($n \leq 100\,000$) and with the 'e' value of 1, 2 or 5 series, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved Model has been manufactured.

[F. No. WM 21 (71)/97]

P.A. KRISHNAMURTHI, Director, Legal Metrology

कोयला मंत्रालय

नई दिल्ली, 22 सितम्बर, 1998

कां.आ० 2051:—केन्द्रीय सरकार ने कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 7 की उपधारा (1) के अधीन जारी की गई भारत सरकार के कोयला मंत्रालय की अधिसूचना सं० कां.आ० 3131 तारीख 27 नवम्बर, 1997 जो भारत के राजपत्र भाग 2, खंड 3, उप-खंड (ii) तारीख 20 दिसम्बर, 1997 में प्रकाशित की गई थी, द्वारा उक्त अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट परिक्षेत्र की भूमि में, जिसका माप 51,100 हेक्टेयर (लगभग) या 126.270 एकड़ (लगभग) है, खनिजों के खनन, खदान और बोर करने, उनकी खुदाई और तलाश करने, उन्हें प्राप्त करने, उन पर कार्य करने और उन्हें ले जाने के अधिकारों के अर्जन करने के अपने आशय की सूचना दी थी;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 8 के अनुसरण में केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है,

और केन्द्रीय सरकार का, पूर्वोक्त रिपोर्ट पर विचार करने के पश्चात् और मध्य प्रदेश सरकार से परामर्श करने के पश्चात् यह समाधान हो गया है कि इससे संलग्न अनुसूची में वर्णित 51,100 हेक्टेयर (लगभग) या 126.270 एकड़ (लगभग) माप वाली भूमि में खनिजों के खनन, खदान, बोर करने, उनकी खुदाई करो और तलाश करने, उन्हें प्राप्त करने, उन पर कार्य करने और उन्हें ले जाने के अधिकार अर्जित किये जाने चाहिये।

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 9 की उपधारा (1) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इससे संलग्न अनुसूची में वर्णित 51,100 हेक्टेयर (लगभग) या 126.270 एकड़ (लगभग) माप वाली भूमि में खनिजों के खनन, खदान, बोर करने, उनकी खुदाई और तलाश करने, उन्हें प्राप्त करने, उन पर कार्य करने और उन्हें ले जाने के अधिकारों को अर्जित किये जाते हैं।

इस अधिसूचना के अधीन अपने आने वाले क्षेत्र के रेखांक सं. एल ई सी एल/बी एस पी/आर ई बी/जी एम (पी एल जी) भूमि/208 तारीख 9 मई, 1998 वाले रेखांक का निरीक्षण कलेक्टर गृहडोल (मध्य प्रदेश) के कार्यालय में या कोयला नियंत्रक, 1, कॉन्सिल हाउस स्ट्रीट, कलकत्ता के कार्यालय में या साउथ ईस्टर्न कोलफील्ड्स लि. (राजस्व विभाग) सीपल रोड, बिलासपुर-495006 (मध्य प्रदेश) के कार्यालय में किया जा सकता है।

अनुसूची

अमलाई ब्लाक विस्तार

सोहागपुर क्षेत्र

जिला-गृहडोल (मध्य प्रदेश)

खनन अधिकार

क्रम सं. ग्राम का नाम	पटवारी हल्का सं.	तहसील	जिला	क्षेत्र हेक्टर में	टिप्पणियां
1. बरगवां	47	अतूपपुर	गृहडोल	51.100	भाग
कुल 51.100 हेक्टेयर (लगभग) या 126.270 एकड़ (लगभग)					

1. ग्राम बरगवां (भाग) में अर्जित किये गये प्लॉट सं.

152(भाग), 160(भाग), 161(भाग), 167(भाग), 168(भाग), 169 से 190, 191(भाग), 192 से 208, 209(भाग), 210 (भाग), 211(भाग), 212(भाग), 213 से 219, 220(भाग), 221(भाग), 222(भाग), 230 (भाग), 231(भाग), 304(भाग), 312(भाग), 313(भाग), 314(भाग), 315(भाग), 316(भाग), 325(भाग), 326(भाग), 329(भाग), 330 से 34, 350(भाग), 352(भाग), 353(भाग), 354(भाग), 355(भाग), 372(भाग), 373(भाग), 374(भाग), 375(भाग), 376 से 379, 380 (भाग), 404(भाग), 407(भाग), 2630 GI/98—3

408 से 411, 412(भाग), 413(भाग), 414 (भाग), 417(भाग), 418, से 431, 432(भाग), 436(भाग), 444 (भाग), 445(भाग), 446, 447, 448(भाग), 449(भाग), 450 (भाग), 451 से 453, 454(भाग), 455(भाग), 462(भाग) ।

सीमा वर्णन

- क--ख : रेखा बरगवां ग्राम में बिन्दु "क" से आरंभ होती है और प्लॉट सं. 312, 354, 355, 353, 352, 350, 191, 372, 373, 375, 374, 375, 432, 436, 443, 444, 448, 449, 450, 454, 462 से होकर गुजरती है और बिन्दु "ख" पर मिलती है।
- ख--ग : रेखा प्लॉट सं. 462, 454, 455, 407, 404, 412, 413, 414, 417, 380, 167, 168, 161, 160, 152 से होकर गुजरती है और बिन्दु "ग" पर मिलती है।
- ग--घ : बिन्दु प्लॉट सं. 152, 209, 210, 211, 212, 222, 221, 220, 230, 231, 329, 326, 325, 316, 315 से होकर गुजरती है और बिन्दु "घ" पर मिलती है।
- घ--क : बिन्दु प्लॉट सं. 315, 304, 314, 313, 312 से होकर गुजरती है और आरंभिक बिन्दु "क" पर मिलती है।

[फा.सं. 43015/3/97-एल.एस. डब्ल्यू./पी.आर.आई डब्ल्यू]

सुनील कुमार, उप सचिव

MINISTRY OF COAL

New Delhi, the 22nd September, 1998

S.O. 2051.—Whereas by the notification of the Government of India in the Ministry of Coal Number S.O. 3131 dated 27th November, 1997 issued under sub-section (1) of Section 7 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), and published in Part-II, Section 3, Sub-Section (ii) of the Gazette of India, dated the 20th December, 1997, the Central Government gave notice of its intention to acquire the rights to mine, quarry, bore, dig and search for, win work and carry away minerals in the lands measuring 51.100 hectares (approximately) or 126.270 acres (approximately) in the locality specified in the Schedule appended to that notification;

And whereas the competent authority in pursuance of section 8 of the said Act, has made his report to the Central Government;

And whereas the Central Government after considering the aforesaid report and after consulting the Government of Madhya Pradesh, is satisfied that the rights to mine, quarry, bore, dig and search for, win work and carry away minerals in the lands measuring 51.100 hectares (approximately) or 126.270 acres (approximately) described in the Schedule appended hereto should be acquired;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 9 of the said Act, the Central Government hereby declares that the rights to mine, quarry, bore, dig and search for, win work and carry away minerals in the lands measuring 51.100 hectares (approximately) or 126.270 acres (approximately) described in the Schedule appended hereto are hereby acquired.

The plan bearing No. SECL/BSP/REV/GM/PLG/Land/208 dated 9th May, 1998 of the area covered by this notification may be inspected in the Office of the Collector, Shahdol (Madhya Pradesh) or in the Office of the Coal Controller, J, Council House Street, Calcutta or in the Office of the South Eastern Coalfields Limited (Revenue Department) Seepat Road, Bilaspur-495006 (Madhya Pradesh).

SCHEDULE

AMLAI BLOCK EXTENSION

SOHAGPUR AREA

DISTRICT-SHAHDOL ; MADHYA PRADESH;

MINING RIGHTS

Serial Number	Name of Village	Patwari Halka Number	Tehsil	District	Area in Hectares	Remarks
1.	Bargawan	47	Anuppur	Shahdol	51.100	Part
TOTAL		51.100 hectares ; approximately; OR 126.27 Acres ; approximately;				

1. Plot numbers acquired in village Bargaman (Part) :

BOUNDARY DESCRIPTION :

152 (Part), 160 (Part), 161 (Part), 167 (Part), 168 (Part),
169 to 190, 191 (Part), 192 to 208, 209 (Part),
210 (Part), 211 (Part), 212 (Part), 213 to 219,
220 (Part), 221 (Part), 222 (Part), 230 (Part),
231 (Part), 304 (Part), 312 (Part), 313 (Part),
314 (Part), 315 (Part), 316 (Part), 325 (Part),
326 (Part), 329 (Part), 330 to 349, 350 (Part),
352 (Part), 353 (Part), 354 (Part), 355 (Part),
372 (Part), 373 (Part), 374 (Part), 375 (Part),
376 to 379, 380 (Part), 404 (Part), 407 (Part),
408 to 411, 412 (Part), 413 (Part), 414 (Part),
417 (Part), 418 to 431, 432 (Part), 436 (Part),
444 (Part), 445 (Part), 446, 447, 448 (Part),
449 (Part), 450 (Part), 451 to 453, 454 (Part),
455 (Part), 462 (Part).

A-B. Line start from point 'A' in village Bargawan and passes through plot numbers 312, 354, 355, 353, 352, 350, 191, 372, 373, 375, 374, 375, 432, 436, 445, 444, 448, 449, 450, 454, 462, and meets at point 'B'.

B-C. Line passes through plot numbers 462, 454, 455, 407, 404, 412, 413, 414, 417, 380, 167, 168, 161, 160, 152 and meets at point 'C'.

C-D. Line passes through plot numbers 152, 209, 210, 211, 212, 222, 221, 220, 230, 231, 329, 326, 325, 316, 315 and meets at point 'D'.

D-A. Line passes through plot numbers 315, 304, 314, 313, 312 and meets at the starting point 'A'.

[No. 43015/3/97-LSW/PRIW]

SUSHIL KUMAR, Dy. Secy.

नई दिल्ली, 23 सितम्बर, 1998

का. आ. 2052:—केन्द्रीय सरकार ने कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 4 की उपधारा (1) के अधीन भारत के राजपत्र, भाग I, खंड 3, उपखंड (ii) तारीख 22 मार्च, 1997 में प्रकाशित भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्यांक का. आ. सं. 748 तारीख 27 फरवरी, 1997 द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट परिक्षेत्र की भूमि में जिसका माप 120.72 हेक्टर (लगभग) या 298.30 एकड़ (लगभग) है, कोयले का पूर्वेक्षण करने के अपने आशय की सूचना दी थी;

और केन्द्रीय सरकार का यह समाधान हो गया है कि उक्त भूमि के भाग में कोयला अभिप्राप्य है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए इससे संलग्न अनुसूची में वर्णित 120.72 हेक्टर (लगभग) या 298.30 एकड़ (लगभग) माप की भूमि में खनिजों के खनन, खदान, बोर करने, उनकी खुदाई और तलाश करने, उन्हें प्राप्त करने, उन पर कार्य करने और उन्हें ले जाने के अधिकारों का अर्जन करने के अपने आशय की सूचना देती है।

टिप्पण 1 : इस अधिसूचना के अन्तर्गत आने वाले क्षेत्र के रेखांक सं. एस ई सी एल/बी एस पी/जी एम (पी एल जी)/भूमि/206 तारीख, 25 अप्रैल, 1998 का निरीक्षण कलेक्टर, सरगुजा (मध्य प्रदेश) के कार्यालय में या कोयला नियंत्रण, 1, कार्जसिल हाउस स्ट्रीट, कलकत्ता के कार्यालय में या साउथ ईस्टर्न कोलफील्ड्स लिमिटेड (राजस्व अनुभाग) सीपत रोड, बिलासपुर-495006 (मध्य प्रदेश) के कार्यालय में किया जा सकता है।

टिप्पण 2 : उपरोक्त अधिनियम की धारा 8 के उपबंधों की ओर ध्यान आकृष्ट किया जाता है, जिसमें निम्नलिखित उपबंध है।

अर्जन के प्रति आक्षेप :—

8. (1) कोई व्यक्ति जो किसी भूमि में जिसकी बाबत धारा 7 के अधीन अधिसूचना निकाली गई है, हितबद्ध है, अधिसूचना के निकाले जाने से तीस दिन के भीतर सम्पूर्ण भूमि या उसके किसी भाग या ऐसी भूमि में या उस पर के किन्हीं अधिकारों का अर्जन किए जाने के बारे में आपत्ति कर सकेगा।

स्पष्टीकरण :—इस धारा के अर्थात्तर्गत यह आपत्ति नहीं मानी जाएगी कि कोई व्यक्ति किसी भूमि में कोयला उत्पादन के लिए स्वयं खनन संक्रियाएं करना चाहता है और ऐसी क्रियाएं केन्द्रीय सरकार या किसी अन्य व्यक्ति को नहीं करनी चाहिए।

(2) उपधारा (1) के अधीन प्रत्येक आपत्ति सक्षम प्राधिकारी को लिखित रूप में की जाएगी और सक्षम प्राधिकारी आपत्तिकर्ता को स्वयं सुने जाने का या विधि व्यवसायी द्वारा सुनवाई का अवसर देगा और ऐसी सभी आपत्तियों को सुनने के पश्चात् और ऐसी अतिरिक्त जांच, यदि कोई हो, करने के पश्चात् जो वह आवश्यक समझता है वह या तो धारा 7 की उपधारा (1) के अधीन अधिसूचित भूमि के या ऐसी भूमि में या उस पर के अधिकारों के संबंध में एक रिपोर्ट या ऐसी भूमि के विभिन्न टुकड़ों या ऐसी भूमि में या उस पर के अधिकारों के संबंध में आपत्तियों पर अपनी सिफारिशों और उसके द्वारा की गई कार्यवाही के अभिलेख सहित विभिन्न रिपोर्ट केन्द्रीय सरकार को उसके विनिश्चय के लिए देगा।

(3) इस धारा के प्रयोजनों के लिए वह व्यक्ति किसी भूमि में हितवद्ध समझा जाएगा जो प्रतिकर में हित का दावा करने का हकदार होता यदि भूमि या किसी ऐसी भूमि में या उस पर के अधिकार इस अधिनियम के अधीन अर्जित कर लिए जाते हैं।

टिप्पण : 3. केन्द्रीय सरकार के कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कलकत्ता को उक्त अधिनियम की धारा 3 भारत के राजपत्र भाग 2, खंड 3, उपखंड (ii) तारीख 4 अप्रैल, 1997 में पृष्ठ 1397 से 1400 पर प्रकाशित अधि-सूचना सं. का. आ. 905 तारीख 20 मार्च, 1997 द्वारा सक्षम प्राधिकारी नियुक्त किया है।

अनुसूची

कटकोना कालरी (पहला विस्तार)

(किलोमिटर कोलफील्डस)

बैकुण्ठपुर क्षेत्र

[जिला--सरगुजा (मध्य प्रदेश)]

(अर्जन करने की आशय से भूमि को दर्शाते हुए)

खनन अधिकार

वन भूमि

क्रम सं.	वन कम्पाटमेंट सं.	रेज	डिवीजन	क्षेत्र हैक्टर में	टिप्पणियां
1	2	3	4	5	6
1.	213	सुरजपुर	दक्षिण सरगुजा	16.55	भाग
2.	214	सुरजपुर	दक्षिण सरगुजा	75.02	भाग
3.	216	सुरजपुर	दक्षिण सरगुजा	29.15	भाग
योग : 120.72 हैक्टर (लगभग)					या
298.30 एकड़ (लगभग)					

सीमा वर्णन :

क--ख--ग : रेखा वन कम्पाटमेंट सं. 213 में बिन्दु "क" से आरंभ होती है और वन कम्पाटमेंट सं. 213, 214 और 216 से होकर गुजरती है और बिन्दु "ग" पर मिलती है।

ग--घ--क : रेखा वन कम्पाटमेंट सं. 216, 214, 213 से होकर गुजरती है और आरंभिक बिन्दु "क" पर मिलती है।

[फा. सं. 43015/17/96-एल. डब्ल्यू./पी.आर.आई.डब्ल्यू.]

सुशील कुमार, उप सचिव

New Delhi, the 23rd September, 1998

S.O. 2052.—Whereas by notification of the Government of India in the Ministry of Coal, number S.O. 748 dated the 27th February, 1997, issued under sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act) and published in the Gazette of India Part-II, Section 3, Sub-section (ii) dated the 22nd March, 1997, the Central Government gave notice of its intention to prospect for coal in 120.72 hectares (approximately) or 298.30 acres (approximately) of the lands in loca-

lity specified in the Schedule annexed to that notification;

And whereas the Central Government is satisfied that coal is obtainable in the said lands;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 7 of the said Act, the Central Government, hereby gives notice of its intention to acquire the rights to mine, quarry, bore, dig and search for, win, work and carry away minerals in the lands measuring 120.72 hectares (approximately) or 298.30 acres (approximately) described in the Schedule appended hereto.

Note 1—The plan bearing number SECL/BSP/GM/ (Plg) Land/206 dated 25th April, 1998 of the area covered by this notification may be inspected in the office of the Collector, Surguja (Madhya Pradesh) or in the office of the Coal Controller, 1, Council House Street, Calcutta or in the Office of the South Eastern Coalfields Limited (Revenue Section) Seepat Road, Bilaspur-495006 (Madhya Pradesh).

Note 2—Attention is hereby invited to the provisions of section 8 of the aforesaid Act, which provides as follows :

Objection to acquisition :

8. (1) Any person interested in any land in respect of which a notification under section 7 has been issued may, within thirty days of the issue of the notification, object to the acquisition of the whole or any part of the land or of any rights in or over such land.

Explanation.—It shall not be an objection within the meaning of this section for any person to say that he himself desires to undertake mining operations in the land for the production of coal and that such operations should not be undertaken by the Central Government or by any other person.

- (2) Every objection under sub-section (1) shall be made to the competent authority in writing and the competent authority shall give

the objector an opportunity of being heard either in person or by a legal practitioner and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, either make a report in respect of the land which has been notified under sub-section (1) of section 7 or of rights in or over such land or make different reports in respect of different parcels of such land or of right in or over such land, to the Central Government, containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that Government.

- (3) For the purposes of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land or any rights in or over such land were acquired under this Act.

Note 3—The Coal Controller, 1, Council House Street, Calcutta has been appointed by the Central Government as the competent authority under section 3 of the said Act, vide notification under S.O. No. 905, dated the 20th March, 1997, published in Part II, Section 3, Sub-section (ii) of the Gazette of India, dated the 4th April, 1997, at pages 1397 to 1400.

SCHEDULE
KATKONA COLLIERY (IST EXTENSION)
JHILIMILI COALFIELDS
BAIKUNTHPUR AREA
DISTRICT—SURGUJA (MADHYA PRADESH)
(Showing intention to acquire lands)

MINING RIGHTS
FOREST LAND

Serial number	Forest Comapartment number	Range	Division	Area in hectares	Remarks
1.	213	Surajpur	South-Surguja	16.55	Part
2.	214	Surajpur	South-Surguja	75.02	Part
3.	216	Surajpur	South-Surguja	29.15	Part

TOTAL : 120.72 hectares (approximately) or
298.30 acres (approximately)

Boundary Description :

A—B—C : Line starts from point 'A' in Forest Compartment number 213 and passes through compartment number 213, 214 and 216 and meets at point 'C'.

C—D—A : Line passes through forest compartment number 216, 214, 213 and meets at start ng point 'A'.

[No. : 43015/17/96-LW/PRIW]
SUSIHL KUMAR, Dy. Secy.

शुद्धि-पत्र

नई दिल्ली, 5 अक्टूबर, 1998

(c) under the heading "Boundary description", against sub-heading "A-B", in line 1, for "pass" read "passes".

[No. 43015/19/94-LSW/PRFW]

SUSHIL KUMAR, Dy. Secy.

रसायन और उर्वरक मंत्रालय

(रसायन और पेट्रो-रसायन विभाग)

नई दिल्ली, 14 मिनम्बर, 1998

का.आ. 2053.—भारत के राजपत्र, तारीख 4 अप्रैल, 1998 के भाग-2 खंड-3, उपखंड (ii) में पृष्ठ संख्या 1268 से 1269 पर प्रकाशित भारत सरकार कोयला मंत्रालय की अधिसूचना का.आ. सं. 676, तारीख 19 मार्च, 1998 में:—

पृष्ठ क्रमांक 1268, तालिका में, ग्राम का नाम स्तंभ के नीचे, क्रम संख्या 3, "तेंदूभाठा" के स्थान पर "तेंदूभाठा" पढ़ें। और जहां कहीं भी "तेंदूभाठा" शब्द प्रयुक्त हुआ हो उसके स्थान पर "तेंदूभाठा" पढ़ें।

तालिका में तहसील स्तंभ के नीचे,

"काठघोड़ा" के स्थान पर "कटघोरा" पढ़ें। और जहां कहीं भी "काठघोड़ा" शब्द प्रयुक्त हुआ हो उसके स्थान पर "कटघोरा" पढ़ें।

ग्राम करताला (भाग) में अर्जित किये गये प्लॉट सं. में, पंक्ति, 3, "302 (भाग), 305 से 314" के स्थान पर "302 (भाग), 303 से 314" पढ़ें।

पृष्ठ क्रमांक 1269, सीमा वर्णन में,

रेखा क-ख, रेखा-जंगानाला के स्थान पर "रेखा-डोंगानाला" पढ़ें।

रेखा "ड-च-छ" के स्थान पर "ड-च" पढ़ें।

रेखा च-च1-छ में,

पंक्ति 1, "गणेशपुरा डोंगानाला" के स्थान पर "गणेशपुर-डोंगानाला" पढ़ें।

[सं. 43015/19/94-एल. एम. डब्ल्यू./पी.आर.आई. डब्ल्यू.]

शुशील कुमार, उप सचिव

CORRIGENDA

New Delhi, the 5th October, 1998

S.O. 2053.—In the notification of the Government of India in the Ministry of Coal number S.O. 676, dated the 19th March, 1998, published at pages 1269 to 1271 in Part II, Section 3, Sub-section (ii) of the Gazette of India, dated the 4th April, 1998,—

(1) at page 1269,

(a) in line 5, for "adequire", read "acquire";

(b) in line 14, for "Centra", read "Central";

(c) in line 15, for "awaly", read "away";

(2) at page 1270,

(a) under the heading "Plot numbers acquired in village Donganala (Part)", in line 1, for "78 to 80.2", read "78 to 80";

(b) under the heading "Plot numbers acquired in village Kartala (Part)", in line 4, for "455 to 50" read "455 to 502"

सारणी

अधिकारी का पदनाम

सार्वजनिक स्थान की श्रेणियों और अधिकारिता की स्थानीय सीमाएं

(1)

(2)

ज्येष्ठ प्रबंधक (कामिक)
इण्डियन पेट्रो-केमिकल्स कॉर्पोरेशन लिमिटेड
नागोठणे, जिला रायगढ़,
महाराष्ट्र।
या
उपकामिक प्रबंधक,

महाराष्ट्र, जिला रायगढ़ के नागोठणे की स्थानीय सीमाओं के भीतर इण्डियन पेट्रो-केमिकल्स कॉर्पोरेशन लिमिटेड द्वारा या उसकी ओर से पट्टे पर लिए गए परिसर।

इण्डियन पेट्रो-केमिकल्स कॉर्पोरेशन लिमिटेड,
नागोठणे, जिला रायगढ़,
महाराष्ट्र।
या

अनुरक्षण प्रबंधक (सिविल)
इण्डियन पेट्रो-केमिकल्स कॉर्पोरेशन
लिमिटेड, नागोठणे,
जिला रायगढ़,
महाराष्ट्र।

Maintenance Manager
(Civil),
Indian Petrochemicals
Corpn. Ltd.,
Nagothane, Dist. Raigarh,
Maharashtra.

[फा.सं.-30014/1/98-युगम(पीसी)]

एम. के. बंधोपाध्याय, अवर सचिव

[F.No.30014/1/98-US(PC)]

S. K. BANDYOPADHYAY, Under Secy.

MINISTRY OF CHEMICALS & FERTILIZERS

(Department of Chemicals & Petrochemicals)

New Delhi, the 14th September, 1998

S.O. 2054.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), and in supersession of the Government of India in the Department of Chemicals and Petrochemicals, Notification S.O. 1194 dated the 21st April, 1987, except as respects things done or omitted to be done before such supersession, the Central Government hereby appoints the Officers mentioned in Column (1) of the Table below being Officers equivalent to the rank of Gazetted Officer of the Government, to be Estate Officers for the purpose of the said Act, and shall exercise the powers conferred upon, and perform the duties imposed on such Estate Officers by or under the said Act in respect of the public premises specified in Column (2) of the said Table.

TABLE

Designation of the Officer	Categories of Public Premises and Local Limits of Jurisdiction
(1)	(2)
Senior Manger (Personnel), Indian Petrochemicals Corporation Ltd., Nagothane, Dist. Raigarh, Maharashtra. Deputy Personnel Manager, Indian Petrochemicals Corpn. Ltd., Nagothane, Dist. Raigarh, Maharashtra. OR	Premises belonging to or taken on lease by or on behalf of Indian Petrochemicals Corpn. Ltd. within the local limits of Nagothane, Dist. Raigarh Maharashtra.

नई दिल्ली, 22 सितम्बर, 1998

का. आ. 2055 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार वेस्टर्न रेलवे, अजमेर के प्रबन्धतंत्र के संबद्ध नियोक्ताओं और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अहमदाबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-9-98 को प्राप्त हुआ था।

[संख्या एन-41011 (54ए)/83-डी ii (बी) बी. I.]

पी. जे. माईकल, डेस्क अधिकारी

MINISTRY OF LABOUR

New Delhi, the 22nd September, 1998

S.O. 2055.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Ahmedabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Western Railway Ajmer, and their workmen, which was received by the Central Government on 21-9-98.

[No. L-41011(54A)/83-D.II(B)|B.I.]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE SHRI B. I. KAZI, B.Sc. LL.M., PRESIDING OFFICER, INDUSTRIAL TRIBUNAL (CENTRAL) AHMEDABAD

Ref. (ITC) No. 14 of 84

ADJUDICATION

BETWEEN

1. The Divisional Rail Manager, Western Railway, Ajmer.
2. The General Manager, Western Railway, Churchgate, Bombay.

1st Party

Versus

The Secretary,
Rail Mazdoor Panchayat,
398-E, Railway Colony,
Abu Road,
Rajasthan

.. Second party

In the matter of modification of order dt. 9-5-78.

APPEARANCES :

Shri H. B. Shah, Advocate, for the first party.
Shri T. R. Mishra, Advocate, for the second party.

AWARD

The Government of India, Ministry of Labour and Rehabilitation department has referred the industrial dispute exists between the employers in relation to the management of DRM, W. Rly. Ajmer Sr. ME (Diesel) Abu Road and their workmen in respect of the matter specified in the schedule below to the Industrial Tribunal of Shri G. S. Barot, and by an appropriate order of the Government it was transferred to this Tribunal for the adjudication of the following dispute. The terms of the reference to this dispute is as under :

"Whether the action of the General Manager, Western Railway, Churchgate, Bombay in modifying his order dated 9-5-78 thereby affecting the claim of seniority of S/Shri 1. Brijmohan S/o Ramchandra. 2. Chitambi 3. Dhaniram S/o Ramaswaroop, 4. Surjit Singh, 5. Shannalal Saini. 6. Kantilal Manishanker, 7. Vishnuprasad S/o Yamunaprasad, 8. Pransingh Barkatram Sethi 9. Chunilal S/o Bhagwandas 10. Amriksingh Kular S/o Jagatsingh, Diesel Mechanics, is justified ? If not, to what relief the workmen are entitled ?"

2. After receiving the industrial dispute, Industrial Tribunal (Central) has issued notice to the Second party i.e. Union to file the statement of claim before the Industrial Tribunal (Gujarat) at Ahmedabad. It is by Ex. 2. By Ex. 89, the second party Union has submitted the statement of claim. The brief facts are as under : The Rail Mazdoor Panchayat i.e. second party submits that writ petition was filed in the Hon'ble High Court of Gujarat being Special Civil Application No. 5241 of 1983 against Union of India for making the reference on the industrial dispute raised by the petitioner Union and Hon'ble High Court of Gujarat was pleased to pass an order and directed the Union of India to take a final decision on the question of reference under the Industrial Disputes Act, 1947 within two months from the date of the receipt of the writ. Then Govt. of India referred the present industrial dispute for adjudication. The dispute has arisen due to grave injustice meted out to the employees who were senior most and who have been ignored for the purpose of promotion.

3. The staff working in Locomotive, Abu Road are the bonafide members of the petitioner union. The first party has been adopting pick and choose policy in the matter of promotion ignoring all the rules and regulations with regard to the promotion, to the higher

cadre. Therefore, the union, in the year 1983, served a notice of strike to the Railway Administration making certain grievances with regard to the promotion of the employees working in Diesel Shed, Abu Road and Sabarmati. Annexure-A is the copy of that notice dtd. 18-4-1983. The Conciliation officer initiated conciliation proceedings and the railway authorities had filed their comments in writing vide their letter dtd. 8th June, 1983 hereto annexed as marked Annexure 'B'. The Union thereafter filed a rejoinder to be aforesaid comments vide letter dtd. 16th July, 1983, the copy of the comments filed by the Union is annexed and marked as Annexure-'C'. The Railway Administration maintained an adamant attitude. Thus the failure report was made on 30th August, 1983 annexed and marked as Annexure 'D'.

4. The Respondent railway authorities with a view to process the whole proceedings and the failure of conciliation report pending decision before the Ministry of Labour hurriedly decided to further promote junior most employees ignoring the legitimate claim of the senior employees already working in the lower cadre since years. The Union has given nearly 10 names who are seniormost ranking on the top in the seniority list and who are senior in order of their seniority and entitled for the promotion in the higher category. The employees mentioned in the seniority list are working in the present post of Diesel Mechanic Gr.-I since 1976 onwards. Some of the employees were promoted later also. The Union has also given some names of juniormost employees who are promoted in the grade of scale of Rs. 425-700 and some in the scale of Rs. 550-950. The employees mentioned in the Annexure-A on the top are ranking senior in the seniority list, but they have been ignored for promotion in the next higher scale in a most arbitrary and capricious manner ignoring the legitimate claim of the seniormost employees for the purpose of promotion in the higher category has created great discontentment and frustration amongst the employees and therefore the union was constrained to serve the notice of strike. The respondent Railway Administration has declared the seniority list of employees working in the grade of Diesel Mechanic Grade-I carrying pay scale of Rs. 380-560 vide their letter No. E/L/103/1930/2501/BR/FL dated 4-1-78. The copy of the said list dated 4-1-1979 together with copy of the seniority list declared by the Railway Administration is annexed and marked Annexure E. Thus employees mentioned in the schedule of reference are ranking on the top. Further the first party have arbitrarily promoted the juniormost employees mentioned at Sr. No. 4, 5, 7, 9, 24, 29, 30, 31 to 45, 48, 52, 53, 56, 57, 63, 64, 65, 66, 68, 69, 74, 76, 77, 78, 79, 81, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 98, 99, 100 & 104. There are other juniormost employees in the said seniority list who have been promoted in the scale of Rs. 425-750. The employees mentioned in the Schedule of Reference are still working in the scale of Rs. 380-560. It is further submitted that the juniormost employees who have got 2 to 3 stage further promotion and many of them are working in the scale of Rs. 560-750 and some of them are even working in the scale of Rs. 700-900. The Railway Administration has arbitrarily denied promotion in accordance with seniority.

city list even though the service record of the employees is upto the mark and there is no adverse remark in the confidential report. The employees mentioned in the schedule of Reference have unblemished service record and they were denied promotion. Since the individual representation and personal contacts with the top senior officers of the Railway Administration did not yield any result, the Industrial dispute has been raised by an order dated 12-9-93. The first party gave promotion to certain junior most employees in the scale of Rs. 550-750 is annexed and marked Annexure-F pending industrial dispute. This impugned action of the first party in denying promotion to senior-most employees is not only arbitrary, capricious and illegal, but is also unjust and improper and that the employees mentioned in the schedule of reference are entitled for promotion in the scale of Rs. 425-700 and upwards as their juniors have been granted with retrospective effect. The impugned action of the first party is illegal, invalid and in-operative in law on the following grounds.

1. The first party has adopted pick and choose policy in the matter of promotion.

2. The employees mentioned in the schedule of reference are irrational and discriminated for certain ulterior reasons and junior-most employees were promoted because of undue influence and favouritism against senior employees. The affected employees had made their grievances since the very inception and the order of the first party is in violation of elementary principles of natural justice. The action of the first party is also punitive in nature and the senior-most employees have been denied higher scale without any proper cause or reason. Thus the workmen referred in the schedule are entitled to be promoted in the higher scale from time to time as per the seniority list. No reason has been communicated for not granting promotion to the higher scale and the action of the first party is contrary to the rules and regulations governing the service conditions of the Railway employees. Therefore the said impugned action of Railway Administration deserves to be quashed and set aside and the employees are entitled to promotion in the higher scale. Thus it is claimed by the second party that promotion should be given to the Railway Administration to promote the employees mentioned in the present schedule of reference in the scale of Rs. 475-700 and in higher scale as well in order of the seniority list and grant arrears of pay and allowances and other fringe benefits as these employees have been promoted in the scale of Rs. 425-700, Rs. 550-750 and Rs. 700-900 to declare and hold that the employees mentioned in the seniority list are senior most and are entitled for promotion in their turn, and to grant any other relief which the Hon'ble Tribunal deems fit and proper and in the interest of natural justice with cost.

5. By Ex. 2 a notice has been served to the first party to file written statement against the statement of claim of the second party. By Ex. 3, the first party has submitted its written statement. The brief facts are that rail mazdoor Panchayat has no locus-standi to file this claim statement. It is submitted that there are only two recognised trade unions in Western Railway i.e. Western Railway Employees Union and Western Railway Mazdoor Sangh. The statement of

claim submitted by the union is not maintainable with regard to para 2 of the statement of claim. It is admitted that by modification no injustice has been done to the petitioner or they have been ignored for promotion as alleged. With regard to para 3 of the statement of claim it is not admitted in the present forum and the first party narrates brief history of the case that in the year 1966 a new diesel shed was set up at Abu Road and to man the work, the staff working in steam shed were inducted on diesel shed. After giving them conversion training in terms of Railway Board's letter No. E(ST)57 RS/6 dated 3-2-1968. This procedure was reviewed in the year 1973 and it was decided by the General Manager (Estt.) Western Railway Church Gate, Bombay that diesel cadre should be closed for steam staff and all the existing steam staff be extended an opportunity to opt for Diesel side. For this purpose notification no. 165 and 197 were issued and published in W. Railway Monthly Gazetted No. 11 dtd. 1-10-1973 and W. Rly Monthly Gazette No. 13 dtd. 1-10-1973 respectively. The staff who opted for diesel side were subjected to an aptitude test and such staff who were declared suitable were sent for diesel conversion training and absorbed in diesel cadre. The seniority list of Diesel Mechanic Grade I and II was notified under the office letter dated 1-10-1974 and Shri Brij Mohan has been assigned seniority position at S. No. 78 Diesel Mechanic Gr. II. He never represented against this seniority position and his seniority position is being maintained. He was promoted as Diesel Mechanic Gr. I on 9-8-82. It is further submitted that on 9-5-78, a policy decision was taken by the headquarter office vide letter No. R3018/11 (Ave) dtd. 9-5-78 in consultation with both the recognised Trade Unions regarding bifurcation of seniority of Diesel Staff with effect from 1-5-78. In compliance to para (A) of General Manager (Estt.) W. Railway, Churchgate, Bombay's letter dtd. 9-5-78, the seniority lists were notified vide letter dtd. 4-1-79. The seniority list thus notified, was disputed by both the recognised Trade Unions and issue was referred to the General Manager, W. Rly., Bombay for decision. After discussions with both the recognised Trade Unions, the General Manager personally took an administrative decision as communicated vide General Manager (Estt.) Western Railway Churchgate Bombay's letter No. E(1) 1180/59/1711/1160/68/274 dated 26-4-1981 copy enclosed as Annexure R-II.

- (i) That 9-5-78 circular may be applied in a limited sense to the ones who opted in response to Gazette notification No. 13 only and that the seniority of 24 employees who are left out should be interpolated without reversion to the juniors already promoted.
- (ii) Seniority of Grade II & Grade I Mechanic should not be disturbed except for interpolating the 24 artisans as brought out above.

Accordingly, these 24 employees were subjected to trade test, to assign them proforma position as per General Manager's decision. Trade tests were conducted and each of the employees amongst these 24 who qualified at the trade test were allowed seniority position as due vide letter dated 2-5-1981.

The comparative statement i.e. S/Shri Brij Mohan & others vis-a-vis to Shri Ved Mitra & others, showing the seniority position is attached as Annexure-R-III. The Rly. Administration craves leave to produce the original seniority list as and when required. The seniority list notified under letter dated 26-12-1978 and 4-1-1979 were cancelled vide letter dated 8-5-1981. It is further submitted that the Rly Administration fully co-operated with the Asstt. Labour Commissioner (Central) Ahmedabad and detailed comments were given on the dispute raised by the applicant. The Asstt. Labour Commissioner was also explained by the personnel officer of the Railway, the whole case on the dates of bearing as and when fixed. With regard to para 4 of the statement of claim it is not admitted and applicant has made affected employees as party in the present dispute. Any decision taken in their absence shall be against the principles of natural justice and it would create heart burning amongst the affected staff. With regard to para 3 the employees shown in Annexure 'E' attached to the application are not senior as would be seen from Annexure-R-III and the 10 employees shown in Annexure-III are much more senior to them as Diesel Mechanic Grade-I and are working as such since 1969. It is also submitted that the staff has never challenged their seniority position notified in the seniority list in 1974 though the staff is allowed one month's time to represent the case. It is further submitted that 10 persons as shown in Annexure III attached to the application were promoted as Chargeman Scale Rs. 425—700(R), purely on ad hoc basis without conferring any right to hold the post, on the dates shown against each of them. The applicant represented his case to Asstt. Labour Commissioner on 18-4-83, whereas the employees mentioned in the list were promoted much earlier than the Conciliation proceedings were initiated. It is further submitted that the seniority list of Diesel Mechanic Grade I in the said para had been cancelled vide letter No. E/L/1030/25 (Grade I) ASR/FL dated 8-5-81 and E/L/1030/25 (Gr. III) ASR/FL dated 6-5-81, copy enclosed is annexed as Annexure-R-IV. With regard to para 5 of the claim it is not admitted. It is submitted that seniority list as referred to by the petitioner is not in existence. The said seniority list is cancelled vide letter of even No. dated 8-5-81. The new seniority lists have been notified vide letter No. E/L/1030/75 (Grade-I) ABR/FL dated 20-7-81. E/L/1030/75 (Grade II) ABR/FL dated 5-6-81 and E/L/1030/25 (Grade III) ABR/FL dated 6-5-81. S/Shri Brij Mohan and others have not challenged the said seniority list, hence the submissions made in this para are not tenable. It is further submitted that no junior employee to Shri Brij Mohan has been promoted as Chargeman's Scale Rs. 425—700(R). With regard to para 6 of the claim application it is disputed. It is submitted that the post of chargeman is a selection post comprising of written test and viva-voce test. It is a positive act of selection. The regular promotion to the post of chargeman scale 425—700 (R) is subject to the passing in the selection. The allegations made in the para are emphatically denied. S/Shri Brij Mohan and others do not stand a chance for promotion as chargemen scale 425—700(R) on ad hoc basis for the present. With regard to para 7 of the claim statement it is denied.

The first party has prepared seniority list and notified the same, but it has not been challenged and allegation of injustice made in the claim appln. are baseless and tenable. With regard to para 8 of the claim statement it is denied. This is a repetition of the allegations that S/Shri Brij Mohan and others have not been given promotion in scale Rs. 425—700 (R). S/Shri Brij Mohan and others do not stand a chance for promotion the allegations made are untenable. With regard to para 9 of claim statement it is not admitted. With regard to para 10 of the claim statement it is denied. With regard to para 11 of the claim statement it is not admitted and in view of the fact narrated in the foregoing paras S/Shri Brij Mohan and others have been assigned the correct seniority position and they do not stand a chance for promotion. The seniority list notified in 1978 has already been cancelled and it is not in force at all. With regard to para 12 of the claim statement are denied. The action of the Railway administration in assigning the seniority position is legal and as per rules. With regard to para 13 of the claim statement it is denied. From the averments made above it is prayed that S/Shri Brij Mohan and others have been assigned the seniority correctly and they do not stand a chance for promotion. Thus, the reference may kindly be rejected with cost.

6. The second party has submitted Annexure A to Annexure E, the documents related to the statement of claim. Annexure A is the notice of strike u/s 22 of the Industrial Disputes Act, 1947 dated 18th April, 1983. Annexure B is the letter written by the Divisional Officer Ajmeer, Western Railway dated 8-6-1983 to the Assistant Labour Commissioner (Central) regarding internal dispute between the management of Western Railway Ajmeer and Railway Mazdoor Panchayat, Abu Road about the grievance of employees working in Diesel shed. Annexure C is the letter written to the Assistant Labour Commissioner (Central) by the Union—Railway Mazdoor Panchayat dtd. 16th July, 1983. Annexure-D is the failure of conciliation report No. AD/11/(65)/83 dtd. 30th August, 1983, written to the Secretary, Govt. of India, Ministry of Labour, New Delhi. Annexure E is the letter written by DS(E) Ajmeer to the Sr. DME (DL) ABR, DAME(DL) FL, DFO(DL)-ABR, FIOFA-GIO regarding seniority of Class-III staff, Mechanic department, Diesel Mechanics Gr. I Abu Road. Ajmeer ABR FL shed divn. dtd. 4-1-1979 and M. Karyalaya, Ajmeer dtd. 12th Sep., 1983. Karyalaya G Saghya-90 by DLR Ajmeer. By Ex. 28, the second party has submitted further DE list mark 28/1 is the letter written by Daniram to the DRM(E) Ajmeer regarding seniority list. Mark 28/1 is the letter written by Amrit Singh Kular to the DRM (Ajmeer) dtd. 20-8-81. Mark 28/3 is the letter written by Bimal Ashiram. Mark 28/4 is the letter written by Deenchand. Mark 28/5 is the letter written by Manojlal. Mark 28/6 is the letter written by Pran Singh. By Ex. 45, the second party has submitted an application to produce certain documents which are of utmost important for deciding this dispute. After hearing the parties, the Tribunal has allowed the second party to produce those documents by Ex. 46. Ex. 46/1 is the copy of the letter No. E/28/8/42 dtd. 3-1-1967 Mark 46/2 is the copy of the Gazette notification No. 11 issued on 16th October, 1972. Mark 46/3 is the copy

of the notification No. 30 of 1973 issued by the General Manager Western Railway, Bombay dtd. 1st October, 1973. 46/4 is the copy of letter No. EU/160/55/121/EU/1160/68/714/dtd. 20-4-1981 from General Manager addressed to two recognised Unions with a copy to Divisional General Manager, Ajmeer. Mark 46/5 is a copy of letter No. E/2/1030/25-ABR-FL, dtd. 22nd March, 1979 from DGM, Ajmeer to Unions functioning in railways. Mark 46/6 is the copy of letter No. E/L/10930/25 GM-I-Gr. I/ABR-81 dtd. 20th July, 1981 from DRM, Ajmeer. 46/7 is a copy of letter No. A/L/839/18-Part-III dtd. 6-11-1981 from DRM (Fstr) Ajmeer. 46/8 is the copy of letter A/L/839/18-Part-II dtd. 29-12-88 from DRM, Ajmeer. 46/9 is the photo-stat copy of page No. 68 of the Indian Railway Establishment Manual-Part-I indicating rule 306. 46/10 is the copy of IRE manual-Part-I page 71 indicating rule No. 321. 46/11 is the copy of IRE manual-Part-I page No. 73 indicating 326(3). 46/12 is the photo state copy of page 11 of Indian Rly Estt. Code. 46/13 is the copy of seniority list declared vide No. EL-1030-85(Gr. I) Abu road/Fulera dtd. 20-7-1981 together with a list of 119 employees.

7. The first party has submitted a list of documents with the written statement by Annexure R. I vide office order dtd. 30th July, 1982 No. E/L-838-20 Part-III issued by DME, Ajmeer. Annexure-R. II is the letter addressed to the Secretary WREU, Bombay and Secretary, WRMS, Bombay Central dtd. 28th April, 1981 issued by GM, WR, Bombay. By Annexure R. III statement showing comparative position of seniority has been submitted. By Annexure R. IV letter issued by DRM Ajmeer to Sr. DME-ABR-BAME-FL, DFO-ABR/FL, SBI dtd. 8-5-1981 bifurcation of Diesel Maintenance cadre (Mechanical wing). By Ex. 18 Shri Vishnuprasad J. Mistry has filed an affidavit and he was cross-examined by the first party advocate Shri H. B. Shah. With that affidavit he has filed two documents by Annexure A & Annexure-B. Annexure A is the rules for bifurcation of Diesel cadre issued by GM(E) WR bearing No. EM/834/8/11(AVC) dtd. 9-5-78. Annexure B is a circular dtd. 3rd January, 1967 No. E-839/8/42 issued by GM(E) regarding promotion, reversion and transfer of Class-III staff, Mechanical Department, Diesel Staff. By Ex. 26, the first party Rly has submitted a list of document. 26/1 is the promotion policy of employees from Diesel Mechanic Gr. I to Chargeman. 26/2 is the letter No. E-839-8/42 dated 3-3-67. 26/3 is a letter No. EM/834/8/11(AVC) dated 9-5-78. 26/4 is the seniority list of 4-1-79. 26/5 is the letter calling for selection, to the employees under reference of Brij Mohan. Copy of this document has been given to the second party and it is produced and was allowed by the Hon'ble Tribunal. By Ex. 27 the first party Rly. submitted further documents. 27/1 is the promotion policy of employees from Technical Gr. I to Chargeman. 27/2 is the GM's letter No. E-839/8/42 dated 3-1-67. 27/3 is the letter No. AM/834/8/11(AVC) dated 9-5-78. 27/4 is the seniority list dated 4-1-79. 27/5 is the letter calling for selection by Jr. Chargeman. All these lists of documents are endorsed by the second party. There is no objection for its production. Hence this Tribunal has ordered the production of all those documents and production was allowed.

8. By Ex. 39 Shri Radheshyam K. Sharma Asstt. Personnel Officer at the office of DRM(E) WR, Ajmeer has filed affidavit on behalf of the first party and with that affidavit he has submitted two documents. Annexure A is the document which is the copy of circular No. E-839-7-1 dated 18th April, 1972 from CEE(A)-CCG addressed to all DSS and others. By Annexure B he has submitted the documents regarding rules for bifurcation of Diesel cadre dated 9-5-1978. Annexure C is the Divisional Officer's letter dated 4-1-1979 regarding seniority of Class III staff of mechanical department. By Annexure D circular issued by DRM Ajmeer regarding bifurcation of Diesel Maintenance cadre (Mechanical wing)—seniority of artisan staff in Diesel shed-ABR-FL dated 8-5-1981 is produced.

9. The second party has given oral evidence on affidavit of Ex. 18 and was cross-examined by the first party's advocate. By Ex. 24 the second party has closed their evidence.

10. The first party has examined Shri Mohanlal Shivranj S. by Ex. 34. During examination-in-chief of that witness adjournment was sought for production of document. The examination in chief was adjourned on 12-10-1994. Though sufficient time was given to the first party for production of witness, the first party was unable to produce that witness, though ordered by the Tribunal. By an application dated 25-7-96 of the second party at Ex. 43, the oral evidence of the first party was closed and affidavit filed on behalf of the first party has rejected as evidence for the want of cross-examination of Shri Radheshyam Sharma and the right of evidence of first party was closed. NOT only that witness of the first party, who has deposed before the Court was also not present for further chief examination. Hence his evidence is also rejected for want of cross-examination.

11. Heard the learned advocate for the second party Shri T. R. Mishra. He has submitted that the workman concerned in the reference were not given proper opportunity regarding abolition of their seniority list. Of order dated 9-5-78 and thus by altering the seniority list, the workman concerned in this reference, though are on the top, the first party promoted junior most employee mentioned at Sr. No. 4, 5, 7, 8, 9, 24, 29, 30, 31, 45, 48 and 52, 53, 56, 57, 63, 64, 65, 66, 68, 69, 74, 76, 77, 78, 79, 81, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 98, 99, 100 and 104 arbitrarily. Thus, the employees mentioned in the schedule of reference are still working in the scale of Rs. 380—560, if they have been promoted have got two to three stage further promotion. Though conciliation proceedings

were pending, the first party decided further promotion of junior employees ignoring legitimate claim of the senior employees already working in the lower cadre since years. A list of 10 names has been submitted, as an annexure to the notice of strike, who are senior most ranking on the top in the seniority list and entitled for promotion in the higher category. They are working in the present post of Diesel mechanic Gr. I since 1976 onwards. Thus the promotion was ignored in a most arbitrary and capricious manner. There was no adverse remark against these senior employees in their confidential report and they have unblemished service record and the present workmen are entitled for promotion to the higher grade. This action of the railway administration is quite illegal, invalid and in-operative in law. They have adopted the policy of pick and choose in the matter of promotion and it is discriminatory for certain ulterior reasons, though they have individual representation on several occasions, but there was no favourable reply to these workman. Thus the action of the railway department is punitive in nature and the senior-most employees have been denied higher scale without any proper cause or reason and the said action of the Railway administration is contrary to the rules and regulations governing the service condition of the railway employees. Thus the workmen of this reference are entitled for the promotion in the higher scale as per the railway manual. Thus the second party requested this Tribunal to allow the present reference and to direct the railway administration to promote the employees under the schedule of reference in the scale of Rs. 425-700 and in higher scale as well in order of seniority list and to grant arrears of pay and allowances and other fringe benefits as if these employees have been promoted in the higher scale of Rs. 425-700, Rs. 550-750 and Rs. 700-900 and to declare the employees mentioned in this reference are senior-most and are entitled for promotion in their turn. Thus the injustice done to these workman should be removed and the relief should be granted. Some of the employees are retired earlier. Hence necessary monetary benefit should be given to those workmen also.

12. Heard Shri H. B. Shah, Advocate on behalf of the Railways. It is submitted by him that for getting promotion, the seniority is not the only criteria. There was bifurcation of the loco shed and diesel shed and in 1973 the first party has rightly denied promotion to the workmen concerned because the seniority list of diesel mechanic Gr. I & II were not notified by the letter dtd. 1-10-1974. Shri Brij Mohan has assigned seniority position at Sr. No. 78 as Diesel mechanic Gr. III. He never represented against this seniority position and he was promoted as Diesel mechanic Gr. I on 9-8-1982. On 9-5-78 a policy decision was taken by the head quarter office in consultation with both the recognised Trade Unions regarding bifurcation of seniority of diesel staff w.e.f. 1-5-1978. Thus in compliance to para A of General Manager (R) Bombay's letter No. 9-5-1978 and the seniority list was informed vide letter dtd. 4-1-79. After discussion with the recognised Trade Union, The General Manager (Personnel) took an administrative decision by letter No. E(L)/1160/59/121/EV/1160/68/274. Thus 24 employees were given trade test to assign them position as per General Manager's decision. Among

these 24, who qualified at the trade test were allowed seniority position as due vide letter dtd. 8-5-81. Thus, the seniority list notified under letter dtd. 26-12-1978 and 4-1-1979 were cancelled vide letter dtd. 8-5-81. The present workmen have never challenged their seniority position though one month's time was allowed to report their case. The post of charge-man in the scale of Rs. 425-700 is a selection post comprising of written test and viva-voce test. Thus the regular promotion to the post of chargeman scale is subject to the passing and the selection of Shri Brij Mohan and others do not stand a chance for promotion and the persons have been assigned correct seniority position and new seniority list is legal and as per rules. Thus he prays for the rejection of the reference.

13. In this reference the following points are to be decided for my consideration.

- (a) Whether the action of the first party i.e. General Manager, Western Railway, Bombay in modifying his order dtd. 9-5-78 is legal and proper?
- (b) Whether the change of seniority of the workmen concerned in the reference is just, legal and proper?
- (c) If the answer to the above two points are negative, the workmen of the reference are entitled for deemed promotion with retrospective effect.
- (d) What relief should be granted to the concerned workmen in the reference.

My answer to the above points are as under as per the reasons given below :

- (a) In negative.
- (b) In negative.
- (c) In affirmative.
- (d) As per order.

Reasons :

18. It is an disputed fact that in the month of May, 1978, steam and diesel cadres were bifurcated on administrative ground. The General Manager vide his letter No. EM/834/811(FBC) dtd. 9-5-1978 framed necessary rules (as per Annexure-A) of the workers, who are involved in the present reference and cleared the test of Mechanic Gr. I & II in the year 1977 and they were placed in the seniority list prepared in 1979, pursuant to the General Manager's circular dtd. 9-5-78. On bifurcation the question of maintaining the seniority, General Manager issued a letter No. 839/A/42 dtd. 3-1-1967 deciding that the seniority of the maintenance staff is absorbed in the Diesel maintenance staff should be fixed on basis of the length of service in the grade. The circular dtd. 3-1-1987 is at Ex. 46/1. Thus (iii) for bifurcation of diesel cadre dtd. 9-5-78 provided in para A is as follows :

- “(iii) Senior man working in grade lower than their juniors due to late entry into Diesel cadre will be promoted on their being found

suitable on bifurcated Diesel Cadre the selection/suitability tests will be conducted in which the persons will be called according to their original seniority on the steam side irrespective of the fact that seniors working in lower grade in diesel side while their juniors who may be working on higher grade. On the seniors passing the selection suitability test in the first attempt the juniors will be reverted if necessary to make room for the seniors."

In that rule there were three major grades :

- (a) Those who are working on the Diesel Cadre on 1-10-73 whose option appearing in the Bi-Monthly Gazette No. 13 of 1-10-73.
- (b) Those who were exercised option referred above in para 1(a).
- (c) Those who have been transferred/brought into the Diesel Maintenance cadre subsequent to 1-10-73 and are working at present there.

Not only that on the separation of Diesel cadre, relative seniority of the staff in the separate Diesel cadre would be prepared on the basis of their relative position on steam cadre; the staff would be given proforma seniority on the steam side which they would have occupied but for transfer to the diesel cadre as on 1-10-73 would be ignored. It is also an undisputed fact that the concerned workman in the present reference before 1973 these workman are senior and have cleared test and selected as mechanic Gr. I. This is proved by affidavit at Ex. 18 by Shri Vishnu Prasad J. Mishra. Thus the original circular dated 9-5-1978 is in conformity with the Railways Establishment Manual paras 356, 311 and 321. Thus the bifurcation of stem diesel was made in 1978. Another seniority list was prepared on the basis of length of service, which is on record at Annexure-E dt. 4-1-79 of the statement of claim. In that last the concerned workman S/Shri Brijmohan at Sr. No. 3, M. Chintambi at Sr. No. 10, Dhani Ram at Sr. No. 11, Sujit Singh at Sr. No. 12, Dharma Lal at Sr. No. 13, Kantilal at Sr. No. 19, Vishnuprasad J. Mishra at Sr. No. 21, Pran Singh at Sr. No. 22, Chunilal at Sr. No. 25, Amrit Singh at Sr. No. 73. Thus the original circular of May, 1978 is in conformity with the Railway Establishment Manual pages 306, 311, 317/5, of Indian Railway establishment code. However, the General Manager by his letter No. EU/1160/55/121 dt. 28-4-1981 issued by ignoring the provision of Railway Establishment Manual on administrative decision and the General Manager in that letter clarified that :

1. The 9-5-78 circular may be applied in a limited sense to the optees, who have opted in response to the Gazette Notification No. 13 only and that the seniority of 24 employees who are left out should be interpolated without reversion to those juniors already promoted.

2. The seniority of Mech. Gr. II & Gr. I of 1974 should not be disturbed except for interpolating the names of 24 Artisan as brought above.

Though these were the personal decision of the General Manager interpolating the names of 24 employees who are junior than the workmen involved in this reference and a grave injustice is done resulting in denying promotion to employees who are senior and selected in trade test. Thus injustice was caused to senior employees and it is the root cause of dispute. It is an admitted position that there are two gazette notifications No. 14 dt. 16-10-1972 and No. 13 dt. 1-10-73 and it is produced by the second party and it is no record and it is not denied by the parties. Prior to this notifications, the concerned workmen of this reference come into diesel side i.e. in 1969-70. Therefore, even according to the original seniority the workmen in the present reference were senior and they were senior in steam side also. However, personal circular issued by the General Manager ignoring all the rules and norms brought 24 juniors and they are made senior to the workmen involved in the present reference. As per the common rule, if the seniority is granted from the length of service, it is not known as to how Railway Administration has denied the seniority on the basis of length of service to workmen involved in present reference. And a new seniority list came into existence vide letter No. E/4/1030/75 (Gr. I) BR/FM dt. 20th July, 1987. The resultant effect of this seniority list was that the seniority of workmen in the present reference changed and employees who were junior to these workmen were promoted in the year 1989 from Mech. Gr. I to Chargeman. These employees were at Sr. No. 4, 5, 7, 8, 9, 24, 29, 30, 31 to 45, 48, 52, 53, 58, 57, 63, 64, 65, 66, 68, 69, 74, 76, 77, 78, 79, 81, 84 85, 86, 87, 88, 90, 91, 92, 93, 94, 95, 96, 98, 99, 100, 104. There are other junior most employees in the said seniority list. These promoted persons however got promotion from the scale of Rs. 524-750 to Rs. 560-750 and some of them are even working in the grade of Rs. 700-900 without additional increment and the persons mentioned in the schedule of the reference were denied their legal right, though they have cleared the selection test. Thus the reason given by the General Manager in the letter dated 28-4-1981 is that with the discussion of both the recognised trade unions. Thus due to the revision of the seniority list in July, 1981 the employees of the present reference were denied their legal right without giving any opportunity of hearing or without assigning any reason. Thus the General Manager has no authority and power under the law to ignore the statutory provisions of the law for treating juniors as seniors and seniors as juniors. The Railway Establishment Manual paras 311 and 321 categorically shows that the seniority of the employees is to be maintained strictly according to their date of appointment and unless the employees requests the Administration to transfer him to a different cadre or different selection for his personal reasons, he will not loss the original seniority at all. Thus it is very clear that the action of the administration was totally unjustified and without giving any opportunity and this instruction was in clear viola-

tion of General Manager's letter dated EM/823/8/11(AVC) dated 9th May, 1978.

19. The concerned workmen have filed their objection to the authority by Ex. 28/1 to 28/6, but the Railway administration did not pass any order regarding the seniority list.

20. The second party has led as evidence by Ex. 18, which is the affidavit of Shri Vishnuprasad Mishra and in his evidence he has narrated the whole fact regarding the change of seniority list. He was cross-examined by the representative of the first party. In his cross-examination it has become clear that on October, 1974 the seniority list of Mech. Gr. I were published and the seniority list of diesel shed was issued in 1979. Thus by introduction of new seniority list in 1981, the seniority list of 1971 and 1973 were cancelled. As per rule 321 of Indian Railway Establishment Manual (Part 1) ? The railways servants may be permitted to see the seniority list in which their names are placed in the seniority list and they may be informed and the objections if any may be filed within one year after the publication of the seniority list or those who cannot conveniently be arranged, they may be informed on request as to their in the seniority list and staff concerned may be allowed to represent about the assigning of their seniority within a period of one year after the publishing of the seniority list. In no case revision in seniority list be entertained beyond this period. Looking to this provision, the concerned workmen have filed their objection within the stipulated time regarding seniority list published in 1981 and the objections are at Exs. 28/1 to 28/6, but the railway administration did not heed to their demands and no reply was given to the concerned workmen, regarding the objections they raised about the seniority list.

21. It is clear that the concerned workman have opted to the Diesel side prior to the Notification No. 13 dated 1-10-1973 and Notification No. 14 dated 16-10-1972 and prior to these Notifications the concerned workmen opted for the diesel local shed in the year 1964-70. Thus even according to the original seniority the workmen in the present reference were senior and in steam side also they were senior. Thus 24 interlocated employees who were junior to the concerned workmen are made senior to the workmen involved in the present reference. Thus the resultant effect of this change was that the workmen involved in the present reference were denied promotion from Mechanic Gr. I to Chargeman and further four steps in the hierarchy of posts. Thus the juniors have retired reaching three steps ahead in the scale of Rs. 700—900 and Rs. 160—2200 and above as the workmen involved in the present reference remain as Mechanic Gr. I only.

22. Looking to rule 323 of persons who were directly recruited in the Locomotive Component Works, shall be deemed to have been transferred to the Diesel Locomotive Works on 1-8-1961, the date on which the Diesel Locomotive Works was set up. The grade held by them as on 1-8-1961 and the length of non-fortuous service in that grade shall be the basis for fixing their selective seniority in the Diesel Locomotive Works on that

date. That the seniority of the steam shed workers are maintained when they opted for diesel shed. Thus the worker in the present reference had cleared the test of Mechanic Gr. I & II in the year 1977 and they were entitled for the promotion to the next post and they have passed the selection suitability test and they should be called according to their seniority on the steam side irrespective of the fact that the senior working in lower cadre in steam side while the junior who may be working on higher cadre and on the senior passing the suitability test in first attempt, the junior will be reverted if necessary to make room for the senior. Thus these instructions were ignored and the employees at Sr. No. 4, 5, 7, 8, 9, 24, 29, 30, 31, 45, 48, 52, 53, 56, 57, 63, 64, 65, 66, 68, 69, 74, 76, 77, 78, 79, 81, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 98, 99, 100 and 104 have been promoted in the year 1981 from the Mechanic Gr. I to chargeman. All these persons who are promoted are juniors to the employees mentioned in the schedule of the reference and these persons have got further three promotions without any selection. Thus the workmen involved in the present reference were not called for selection to the promotional post and grave injustice have been done to these workman by the railway authority for not calling them for the selection to the promotional post, though they were entitled for calling them to the selection post. Thus looking to the General Manager's letter dt. 3rd January, 1967, regarding promotions it was decided that the cadre of steam and diesel maintenance staff should be separated. The steam side staff will be eligible for promotion only on the steam side and diesel staff only on the diesel side, and there would be no interchangeability between them. However, this will not preclude the steam staff being absorbed on the diesel maintenance in equivalent grade after training until the steam and diesel cadres stabilises and absorption of surplus steam staff in the diesel maintenance post is finalised. The seniority of steam maintenance staff absorbed in the diesel maintenance post should be fixed on the basis of length of service in the grade. Thus the seniority should be calculated from the date of entry into the grade. It is clear that workmen in the present reference have gone training and have passed the trade test. After the training as a diesel staff they were entitled for the promotion when the vacancy arise for the higher post. However, the railway authority have denied the opportunity to the present workmen without assigning any reason to the present workmen. Thus grave injustice have been done by the railway authority in which the persons will be called according to their original seniority on the steam side irrespective of the fact that seniors are working in lower grade in the diesel side while their senior juniors who may be working in the higher grade on the seniors passing the selection/suitability test on the first attempt, the juniors will be reverted if necessary to make room for the seniors. Thus there is no evidence that workmen in the present reference did not pass selection/suitability test on the first attempt. However, if they were not called for promotion though they were entitled for selection/suitability test and injustice is done to the present workmen. Thus the juniors were promoted, and the workmen in the present denied the right of promotion by not calling them to the selection/suitability test.

24. Thus it is clear that the workmen in the present reference are seniors in the seniority list and they were entitled for promotion to the higher post. The first party has not called them for the selection/suitability test. Thus the workmen in the present reference though eligible persons to be considered for the higher post, but they were not sent to the selection/suitability test and juniors were sent to the selection/suitability test and they were promoted. Thus the act of the first party is contrary to law and rules made by the first party and the workmen in the present reference were denied promotion though they were entitled for the promotion. This action of the first party being contrary to law and against the rules framed by the railway authority, the workmen in the present reference were denied opportunity for promotion, though they were entitled for promotion. Thus it is directed to the first party, railway administration, to treat the concerned workman in the present reference as senior in the seniority list and due to denial of the promotion the present workmen have suffered great economic loss. Thus all the consequential benefits like, promotion fixation of pay and payment of arrears are awarded to the present workmen and the consequential benefits of re-fixation of pension in respect of those employees who have retired from the service of the railway administration is hereby directed. Thus it is directed that the present workmen should be treated as promoted to the higher post on the date when the juniors to the present workmen have been promoted to the promotional post and they should be given all the monetary benefits which the junior workmen have received due to promotion of the junior workmen.

25. Thus looking to the above observation it is clear that the first party railways have violated the rules and regulations for promotion by issuing the revised seniority list of 20th July, 1981 and promoting juniors employees to the post of chargeman while denying the promotion to the workmen of the present reference. Thus, it is directed that the railway administration should give the deemed promotion to the workmen of the present reference to the post of chargeman from the date their respective junior employees were promoted and that the seniority shall be re-constituted treating the present workman as seniors. It is further directed that the railway administration shall pay arrears of wages in the scale of Rs. 425-700 with retrospective effect to the present workmen from the dates when their juniors have been promoted and all the consequential monetary benefits should be given to the present workmen as given to the junior workman. Hence I pass the following order.

ORDER

The reference is allowed. The order passed by the railway authority dtd. 20-7-1981 regarding the seniority of the Mech. Gr. I is hereby set aside and the order of the General Manager modifying his order dtd. 9-5-1978 effecting claim of seniority of S/Shri.

1. Brijmohan S/o Ramchandra
2. Chitambi
3. Dhaniram S/o Ramswaroop

4. Surjit Singh
 5. Dhannalal Saini
 6. Kantilal Manishankar
 7. Vishnu Prasad S/o Jamunaprasad
 8. Pransingh Barkatram Sathi
 9. Chunnilal S/o Bhagwandas
 10. Amriksingh Kular S/o Jagatsingh
- Diesel Mechanics is hereby set aside.

The railway administration should give deemed promotion to the workmen referred in the schedule of the reference to the post of Chargeman from the date of their respective junior employees have been promoted and shall pay arrears of wages with retrospective effect from the dates their juniors have been promoted. Thus the railway administration should pay all consequential benefits of promotion, fixation of pay and payment of arrears to the present workmen referred in the schedule and re-fixation of pension in respect of those employees involved in the present reference who have retired from the service of the railway administration.

3. The arrears should be paid within 90 days of the receipt of this reference by the first party to the workmen mentioned in the reference

4. The first party should pay the cost of Rs 1500 to the second party.

B. I. KAZI, Presiding Officer

नई दिल्ली, 22 सितम्बर, 1998

का. आ. 2056 :- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया हैदराबाद के प्रबन्धन के संश्लेषण नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-1, हैदराबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-9-1998 को प्राप्त हुआ था।

[संख्या एल-12012/71/96--आई. आर. (बी-1)]
पी. जे. माईकल, डेस्क अधिकारी

New Delhi the 22nd September, 1998

S.O. 2056.- In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Tribunal-I, Hyderabad as shown in the Annexure in the industrial dispute between the employers in relation to the management of State Bank of India, Hyderabad and their workman, which was received by the Central Government on 22-9-1998.

[No. U-12012/71/96-IR (B-I)]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL-I AT
HYDERABAD

PRESENT :

Sri C. V. Raghavaiah, B.Sc., B.L., Industrial Tribunal-I,
Hyderabad.

Friday, the 31st day of July, 1998
Industrial Dispute No. 46 of 1997

BETWEEN

Sri S. Sataiah, S/o Nanaiah, R/o 3-54-62,
Saraswathi Nagar Colony, Lothukunta,
Secunderabad-500015 . Petitioner/workman

AND

The Chief Manager,
State Bank of India,
Yellareddyguda Branch, Hyderabad . Respondent/
Management.

APPEARANCES :

M/s. C. V. Mohan Reddy, D. R. Prasad, Advocates—
for the Petitioner.

M/s. B. G. Ravindra Reddy and S. Prabhakar Reddy,
Advocates—for the Respondent.

AWARD

The Government of India by its Order No. L-12012/71/
96-IR (B-I), dated 14-7-97 made this reference U/s. 10(1)(d)
and 2(A) of the Industrial Disputes Act, 1947 hereinafter
called the Act for adjudication of the industrial dispute
mentioned in the Schedule which reads as follows :

“Whether the action of the management of State Bank
of India, Hyderabad is justified in terminating the
services of Shri S. Sataiah, Ex. Watchman with
effect from 10-1-95 without following the provisions
of Section 25-F of the I. D. Act ? If not to what
relief he is entitled to ?”

The reference was registered as I. D. 46/97. Both the
parties appeared after being served as well as made their
appearance through their advocates and filed their pleadings.

2. The petitioner filed a detailed claim statement with
the following allegations :

He has served in the Indian Army from 9-9-1975 to
30-9-1990. And he retired from service after
serving for 15 years. He was in search of job
during 1993. He came to know that there are
vacancies of watchman in the State Bank of India,
Hyderabad region. Hence, he approached the Local
head office of State Bank of India in September,
1993, submitted an application to the Circle Security
Officer who issued letter dated 22-9-93 asking him
to approach the respondent bank of Yellareddyguda
Branch. The respondent thereafter issued appoint-
ment order to him on 8-10-93 appointing him as
temporary watchman on daily wages. He was
however asked to report at the factory premises of
Ajit Alloys Private Limited, Kondamadugu and
further directed to keep watch over the stock and
machinery of the said company. The petitioner
complied with the said direction from 8-10-93 on-
wards along with two other persons who are also
appointed on temporary basis as watchman by
working for 8 hours per day in shift system. He
worked continuously without taking any holiday
or leave till 10-1-95 and at the time of joining he
was paid as sum of Rs. 1,785 per month as salary
which was later enhanced to Rs. 1,845 and thus
the petitioner worked for 459 days and his work
was being supervised from time to time by Albar
Khan and Thyagarajan, field officers of the bank
at that time. But he was surprised when he was
asked not to attend to duties with effect from
10-1-95. But no order of termination was given
and further there is violation of Section 25-F
of the I. D. Act.

The petitioner further contended that as per the staff
circular dated 16-11-79 issued by the SBI, persons
who are appointed temporarily and who have com-
pleted 270 days of service between 1-7-72 to
30-6-75 should be absorbed in existing regular
vacancies and another circular No. 85 was issued
in the year 1975. And presently also persons who
have put in more than one year of service have to
be absorbed in the existing regular vacancies as
per the circular issued by the State Bank of India
from time to time as such he is entitled to be
absorbed as the action of the Respondent Bank
in terminating the services is arbitrary and illegal.
He also contended that in spite of repeated requests,
the respondent bank did not continue him in service.
Hence he approached the Asstt. Commissioner
Labour but the conciliation proceedings ended to
failure leading to reference of the dispute to this
Tribunal. The Petitioner thus prayed that the
respondent may be directed to reinstate him into
service with back wages continuity of service as
the action of the respondent in terminating him
from service from 10-1-95 is bad in law.

3. The respondent bank filed a counter resisting the claim.
It admitted that the petitioner worked as a temporary watch-
man from 8-10-93 to 10-1-95 to keep watch over the stock
and machinery of Ajit Alloys Private Limited company, its
borrower. It however denied that the petitioner was the
employee of the respondent. It on the other hand conten-
ded that he was the employee of the Ajit Alloys and com-
pany on whose behalf the respondent acted as mediator and
paid the salary debiting the same from the account of Ajit
Alloys and company. It thus contended that as the peti-
tioner was not his employee, the question of terminating of
his service does not arise and there is no violation of
Section 25-F of the Industrial Disputes Act. Further the
appointment order issued in favour of the petitioner by
the Branch Manager of the respondent has no legal sanctity.
It further contended that specific procedure was prescribed
regarding the workman for filling up the post of watchman
and Armed Guards. As per the said procedure the vacan-
cies have to be notified to the Director, Sainik Welfare
Government of Andhra Pradesh and it has to sponsor the
candidates in the ratio of 1 : 6 and that bank will hold
the interview observing the reservation policy. If selection
will be made and successful candidates will put on probation
for a period of 6 months and that as no such procedure was
followed in this case even if it is assumed that the petitioner
is the employee of the respondent he is not entitled of relief
of reinstatement or absorption as he was not appointed to
any regular vacancy by following the above procedure. It
thus contended that this reference is not maintainable and
Section 25-F of the Act under which reference is made is
not attracted to the facts of the case. It prayed for rejecting
the reference.

4. On the above contentions, the following points arise for
consideration :

(1) Whether the action of the Management, State Bank
of India, Hyderabad is justified in terminating the
services of Sri S. Sataiah, Ex. Watchman with effect
from 10-1-95 without following the provisions of
Section 25-F of the I. D. Act ?

(2) If not, to what relief he is entitled to ?

5. In support of his contention, the petitioner Sataiah
examined himself as PW-1 and marked Exs. W-1 to W-11.
On behalf of the respondent bank one Sri B. V. Subba
Rao, Chief Manager of Yellareddyguda Branch was examined
as MW-1 and Exs. M-1 to M-5 are marked.

6. Points No. 1 and 2—It is the case of the petitioner who
is an exeserviceman that he has been appointed as a tempo-
rary watchman in the State Bank of India, Yellareddyguda Branch
on 8-10-93 under Ex. W-1 order by than Chief Manager on
the basis of the letter given by the Chief Security Officer
but he was however asked to work in the premises of the
Ajit Alloys Private Limited Company by keeping watch
over its machinery, etc., but he was paid salary by the bank
under Exs. W-2 and W-3 cheques that his work is being
supervised by the field officers of the bank who have signed
in Ex. W-4 attendance registers maintained by him, and though

he worked for 459 days continuously, he was terminated from service orally on 10-1-95, without following the procedure prescribed U/s. 25-F of the I. D. Act. It is his further case that in spite of repeated representations made under Ex. W-5, he was not taken into service though Ex. W-10 and W-11 circulars issued by the head office provides for regularisation of employees who have worked for 240 days continuously and that he moved the Asst. Labour Commissioner by filing Ex. W-6 petition before him that the respondent bank was served with Ex. W-7 and W-8 notices and participated in the proceedings which however ended in failure as borne out by Ex. W-9 minutes of the meeting and as such the termination of the service by the respondent bank is contrary to the provisions of Section 25-F of the Industrial Disputes Act that it is illegal and arbitrary as such he is entitled to reinstatement with back wages and continuity of service.

7. The contention of the respondent on the other hand is that Ex. W-1 appointment order issued in favour of the petitioner is not valid as the Chief Manager has no authority to appoint temporary watchman and that the petitioner worked only as watchman of Ajit Alloys Private Limited which borrowed money from the bank pleading its movables and that the petitioner kept watch over the pledged articles as such he is not the employee of the bank. It further contended that a procedure is prescribed for appointment of watchman. But the petitioner is not appointed in accordance with the said procedure but appointed as a temporary watchman on daily wage basis as such he is not entitled to be reinstated as termination of his service would not amount to retrenchment, so as to attract Section 25-F of the Act. It further contended that the Exs. W-10 and W-11 relied on by the petitioner are not relevant to the facts of the case as he is only a temporary watchman and in view of Ex. M-2 rules regarding recruitment of Ex-servicemen candidates as watchman Ex. M-5 model of appointment order, Ex. M-4 recruitment procedure to subordinate cadre and that Ex. M-3 would show that the salary of the petitioner was paid from the account of Ajit Alloys and company. It however conceded that the conciliation proceedings ended in failure as borne out by Ex. M-1.

8. Thus the following points arise for consideration in view of the contentions raised by the parties :

- (1) Whether the petitioner worked as watchman of the respondent bank or he was the employee of Ajit Alloys Private Limited company.
- (2) Whether the termination of his service amount to retrenchment within the meaning of Section 2(oo) if so, there is violation of Section 25-F of the I. D. Act as admittedly no notice of retrenchment or wages in lieu of notice or retrenchment compensation was paid ?

9. Point No. 1.—It is not in the dispute that under Ex. W-1 order dated 8-10-93 issued by the Chief Manager of the respondent bank, the petitioner was appointed as temporary watchman and he continued in service till 10-1-95 on which day he was orally informed that his service is no longer required. There can also be no doubt that the petitioner was asked to keep watch over the machinery, stock and generator of Ajit Alloys Private Limited company in its premises till the date of termination from the date of Ex. W-1 order. It is also beyond doubt that the petitioner was paid wages by the bank by way of cheque under Ex. W-2 and W-3. It is of course debited from the account of Ajit Alloys Private Limited as borne out by Ex. M-3. The representations made by the petitioner for continuing in service are of no avail. Hence he approached the Asst. Labour Commissioner by filing Ex. W-6 petition and the respondent bank took part in the conciliation proceedings as can be seen from Ex. W-9 minutes. It ultimately ended in failure, which necessitated in referring the Industrial Dispute to this Tribunal.

10. The parties are at issue whether the petitioner was the employee of the bank or that of Ajit Alloys Private Limited.

2330 G1/98—5

11. The evidence of petitioner would show that he was appointed as watchman by the bank. He was paid wages by the bank. His work was supervised by the bank and that he was further asked to keep watch over the machinery of Ajit Alloys Private Limited but he is not the employee of the said company. RW-1 on the other hand stated that the petitioner was the employee of Ajit Alloys Private Limited company but not of the bank and he was paid salary by debiting from the account of the said company as borne out by Ex. M-3. Thus the oral evidence placed on record which is not only an interested one but also conflicting as to whether the petitioner was the employee of the bank or Ajit Alloys Private Limited company. But in my view, petitioner has placed sufficient documentary evidence on record in proof of his case that he is the watchman of the respondent bank.

12. Ex. W-1 which is dated 8-10-93 would clearly show that he has been appointed as temporary watchman of the bank on the letter given by Chief Security Officer with instruction to report at the premises of Ajit Alloys Private Limited and to keep watch over the machinery, stock and generator of the said company and prevent the removal of the same from the premises even by taking police help if required. Similarly, Ex. M-2 and M-3 show that he was paid salary by the bank by way of cheques. Ex. W-4 attendance register maintained by the petitioner will show that the field officer of the bank have been verifying periodically, whether the petitioner was discharging the duties entrusted to him at Ajit Alloys Private Limited premises. Ex. W-4 would further show that besides the petitioner two other persons by name Dargutah and Venkateshwarlu were appointed as watchman on the same day, and they kept vigil at Ajit Alloys Private Limited company. Ofcourse there are no signatures of the field officer in Ex. W-4 from the month of 1-7-94 to 1-9-94 and 1-11-94 to 10-1-95. RW-1 could not deny the signature of the field officer in Ex. W-4 duty book maintained by the petitioner. As against above documents the respondent filed only Ex. M-3 extract of Ajit Alloys Private Limited. It no doubt shows that the debit entry is made in the said amount regarding the wages paid to the petitioner and 2 other watchmen. I am of the view that Ex. M-3 in the absence of any other material on record is not sufficient to hold that the petitioner has worked as watchman of Ajit Alloys Private Limited. As stated above under Ex. W-1 order, he was asked to keep watch over the pledged articles belonging to the said company simply because he kept vigil at the premises of the said company but not the bank; it cannot be said that he was the employee of Ajit Alloys Company. It is in the evidence of MW-1 that they financed money to the said company and it has hypothecated its movable properties. Hence, it is obvious to safeguard its own interest i.e. to say to prevent the borrower from removing the pledged articles, the petitioner was appointed by the bank to keep vigil over the pledged articles belonging to the said company.

13. Hence, on a consideration of the oral and documentary evidence adduced by both parties and having regard to the fact that the work of the petitioner was supervised by the field officer of the bank and he was paid salary by the bank pursuant to Ex. W-1 order appointing him as watchman. I find no difficulty to come to the conclusion that the petitioner was the employee of the bank but not that of the Ajit Alloys and company. Merely because he did not work at the bank it cannot be said that he was not the employee of the Bank in spite of Ex. W-1 order issued by the Chief Manager of the respondent bank. I am of the view that it is not necessary to go into the question whether Ex. W-1 order issued by the Chief Manager is valid or not and about his competency in issuing it. The point is hence answered in favour of the petitioner.

14. Point No. 2.—It is the contention of the petitioner that he worked for more than 240 days in a calendar year prior to date of termination that he is in fact worked for 459 days continuously from 8-10-93 to 10-1-95 but his services were terminated verbally without following the procedure prescribed U/s. 25-F of the I. D. Act, as such he is liable to be reinstated. The respondent contended on the other hand that Section 25-F is not attracted as appointment of petitioner is not in accordance with the recruitment rules Ex. M-2 and M-4. Whereas according to the petitioner he is entitled to be reinstated in view of Ex. W-10 and W-11 circulars issued by the Head Office. Thus the crux

of the case is whether the termination of the petitioner amounts to retrenchment within the meaning of Section 2(oo) in which case only Section 25-F would come into play as admittedly no notice of termination or wages in lieu of notice or retrenchment compensation was paid to the petitioner. It is therefore useful to extract Section 2(oo) which defines the expression 'retrenchment'. 'retrenchment' means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does include—

- (a) voluntary retirement of the workman : or
- (b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf ; or
- (bb) As a result of non-renewal of the contract of the employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein.

Clause (bb) was introduced with effect from 1989 and it provided for non continuous of the contract of employment after the expiry of the contract period and such termination would not amount to retrenchment.

15. The petitioner in this case was admittedly appointed as a temporary watchman on daily wage basis, for a specific purpose and period for keeping vigil over the stock and machinery of Ajit Alloys and Company on behalf of the respondent bank, subsequent to 10-1-95. It appears that security agency was engaged to keep watch over the machinery of the above company. It is not necessary to go into the question whether the said agency can be engaged by the respondent and whether it comes within the prohibited category of employment. Thus it is obvious that the contract of employment of the petitioner was not extended after 10-1-95 for the above reason.

16. As the appointment of the petitioner is purely a temporary one on daily wage basis his case falls under clause (bb) of Sec. 2(oo) in my view. In such case, the termination of service of the petitioner cannot be deemed to be retrenchment. It only appears to be a case of discharge simpliciter though there can be no doubt in view of Ex. W4 duty register that the petitioner worked for 459 days. However, the petitioner relied on the following decisions reported in 1988(4) SLR, page 388 Narotam Chopra Vs. Presiding Officer, Labour Court and others, 1988(4) S.L.R. page 830 N. Selvaraj Vs. The Management of Seeranaickenpalayam Weavers' Co-op Production & Sales Society Ltd. Coimbatore and 1996 (1) LLJ page 823 P. R. Ramachandran & Others Vs. Tamil Nadu Water Supply & Drainage Board and Another, 1997(2) Supreme Court cases page 396 Ratan Singh Vs. Union of India. The petitioner also relied on Ex. M10 and M11 circulars. The respondent on the other hand relied on a decision of the Supreme Court reported in 1997(4) SCC page 391 HIMANSHU KUMAR VIDYARTHI vs. STATE OF BIHAR in support of the contention that disengagement of temporary employees engaged on daily wage basis would not amount to retrenchment, and as they have no right to the post to hold, their disengagement cannot be held to be arbitrary as they are appointed on the basis of the need of the work without following the prescribed procedure.

17. As stated above the petitioner appears to have worked for more than 240 days in a calendar year prior to date of termination to qualify himself for continuous one year service as per Sec. 25B of the Industrial Disputes Act. The circulars relied on by the petitioner would no doubt go to show temporary employees who have put in atleast 240 days of continuous service during 12 months period preceding the date of termination have to be absorbed in future existing vacancies. Ex. W10 circular was issued on 15-9-1976. As per the said circular, all those temporary employees who have put in a service of 240 days in a calendar year and whose services were terminated on 1-1-75 have to be reinstated in temporary capacity on their making application to the Bank for reinstatement. Ex. W11 is another circular dated 22-12-1978 as per which all those employees who have been completed aggregate temporary service of 270 days or more during the period 1-7-1972 to 30-6-75 but were not protected in terms of Industrial Disputes Act may be given preference in the matter of appointment as and when necessary provided services of supernumerary temporary employees who have been already reinstated or being used elsewhere in a proper manner. As per clause (b) in case of those employees who are likely to complete 240 days in 12 calendar months such cases should be referred to the head office for clearance. As per clause (d) which deals with Badli watchmen it is stated where the need for such appointment arises in exigencies the watchmen who have completed temporary service of 270 days or more after 1-7-72 should be preferred for appointment on temporary basis so however their temporary service in period of 12 calendar months does not exceed 240 days". Subsequently on 12-11-1979, another circular was issued superseding the earlier circulars. It has been mentioned that temporary employees who have worked in subordinate cadre for 270 days or more during 1-7-72 to 30-6-75 or little later be absorbed in the existing regular vacancies in subordinate cadre if any subject to their being otherwise eligible and found satisfactory in the interview subject to reservation of vacancies for ST, SC candidates and after protection for temporary employees who have put in 240 days of temporary service in 12 calendar months have been absorbed. It has also been mentioned in para 4, no temporary employees shall be allowed to cross 90 days temporary service in the year under any circumstances. (b) those who have completed 270 days of temporary service as above and have been disengaged against regular temporary vacancies of the earlier instructions should not be allowed to exceed 240 days in 12 calendar months, and (c) under no circumstances candidates who do not meet the required stipulation regard to age, education, qualification should be offered temporary or permanent employment.

18. Thus the above circular would no doubt go to show that temporary employees who have put in 240 days of service in 12 calendar months prior to date of termination have to be reabsorbed. I however feel that those circulars are applicable only to the persons who have worked prior to 1975. i.e.,

between July, 1972 to 30-6-1975 or few days later but not to persons appointed subsequently. Further, the said circulars cease to be in force after recruitment rules to subordinate cadre are framed. Especially after special procedure is prescribed for recruitment of ex-servicemen as borne out by Ex. M2 and M4.

19. The above recruitment procedure has statutory force. As per the said rules recruitment of subordinate staff should be made only through employment exchange as per the Government direction. But guards and watchman can be appointed from out of the ex-servicemen only who have been honourably discharged from service. As per Ex. M2 in case of ex-servicemen the candidate has to be sponsored by the concerned District Sainik Welfare Board. Admittedly, in this case, PW1 was not appointed following the above procedure. His name was not sponsored by the Sanik Board. As per Chapter 21 of ex-servicemen candidates (employees) rules, para 8 would show all vacancies reserved for ex-servicemen from 1-4-82 has to be made from among the candidates nominated by the Zilla Sainik Board. Further, no test or interview was held before appointing WW1 as watchman as per the procedure. In my view when an appointment is not made as per the prescribed procedure, the termination of service of such persons could not amount to retrenchment.

20. As per decision cited by the learned counsel for the respondent if a person is not appointed to the post in accordance with rules but was engaged on the basis of need of work, they are temporary employees working on daily wages, their disengagement from service cannot be considered as retrenchment under the I.D. Act. The concept of retrenchment therefore cannot be stretched to such an extent as to cover these employees as they are only daily waged employees and that they have no right to the post to hold their disengagement is arbitrary. In the instant case also WW1 was undisputedly appointed as temporary watchman on daily wages on the basis of need of work for a specific purpose of keeping vigil over the machinery and stock of Ajit Alloys Private limited on behalf of the respondent bank. Further he was appointed contrary to the rules of recruitment as he was not sponsored by the Sanik Board.

21. Hence having regard to the facts and circumstances of the case and the above latest ruling of the Supreme Court, I am of the view that the termination of the service of the petitioner who was appointed as per the need of the work to meet the need of the work and as he has no right to the post to which he has been temporarily appointed would not amount to retrenchment. In as much as this is a case of discharge simpliciter and not a case of retrenchment I feel Sec. 25-F is not attracted. Only in case of retrenchment within the meaning of Sec. 2(oo) of the I.D. Act procedure prescribed u/s. 25-F has to be followed. As it is not a case of retrenchment, I am of the view there is no violation of Sec. 25-F of the I.D. Act. Hence, the petitioner is not entitled to relief of reinstatement with back wages. The point is hence answered accordingly.

22. For the foregoing reasons, I therefore, feel that the reference has to be answered against the petitioner/workman as he is not entitled to any direction to the respondent to reinstatement. The reference is hence answered against the petitioner/workman.

Dictated to the Senior Stenographer, transcribed by her, corrected by me and given under my hand and the seal of this Tribunal, this the 31st day of July, 1998.

C. V. RAGHAVIAH, Industrial Tribunal-I
Appendix of Evidence

Witnesses Examined for
the Petitioner :

W.W1 S. Sataiah

Witnesses Examined for
the Respondent :

M.W1 B. V. Subba Rao

Documents marked for the Petitioner/Workman :

- Ex. W1 Appointment Order dated 8-10-93 issued to WW1 as daily wage watchman by SBI, Yellareddyguda Branch.
- Ex. W2 Xerox copy of the Cheque for Rs. 535.65 dated 11-1-95.
- Ex. W3 Xerox copy of the Cheque for Rs. 1346.18 ps. dated 2-2-95.
- Ex. W4 (Duty book) Attendance Register of WW1 and other watchman.
- Ex. W5 Representation given by WW1 dated 23-2-98 to the General Manager, S.B.I.
- Ex. W6 Petition dated 14-6-95 filed by the WW1 before ALC (Central) Hyderabad.
- Ex. W7 Notice sent by the ALC to participate in conciliation dated 6-9-95.
- Ex. W8 Notice sent by the ALC dated 9-11-95 to participate in conciliation.
- Ex. W9 Minutes of conciliation proceedings.
- Ex. W10 Circular of the bank regarding the regularisation of service of watchman who worked for 240 days dated 15-9-1976.
- Ex. W11 Circular regarding the service put to the employees who worked for 1 year dated 22-2-78.

Documents marked for the respondent/Management :

- Ex. M1 Minutes of conciliation.
- Ex. M2 Rules regarding ex-servicemen candidates/employees.
- Ex. M3 Xerox copy of extract copy of the ledger of Ajit Alloys Private Limited.

Ex. M4 Extract xerox copy of Recruitment to subordinate cadre (xerox copy).

Ex. M5 Model appointment order (xerox copy).

नई दिल्ली, 25 सितम्बर, 1998

का. आ. 2057.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया, लखनऊ के प्रबन्ध-सम के संबंध नियोक्तों और उनके कर्मचारों के बीच, अनुबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-9-98 को प्राप्त हुआ था।

[संख्या एल.-12012/109/96-आई आर. (बी) बी. I]

पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 25th September, 1998.

S.O. 2057.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of State Bank of India, and their workman, which was received by the Central Government on 24-9-98.

[No. L-12012/109/96-IR(B)|B.I]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE SHRI B. K. SRIVASTAVA PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM LABOUR COURT, DEOKI PALACE ROAD, PANDU NAGAR, KANPUR

Industrial Dispute No. 131 of 1997

In the matter of dispute between:

Ram Chandra
S/o. Pakira Singh
Vill. Samda P.O. Bhakeera
Distt. Basti.

AND

Asstt. General Manager
State Bank of India
Zonal Office Region-1
Commercial Exchange Building
24 Mahatma Gandhi Marg
Lucknow.

APPEARANCE:

Shri K. G. N. Khare—for the workman.

Shri D. K. Pathak—for the Management.

AWARD

1. Central Government Ministry of Labour New Delhi vide its Notification No. L-12012/109/96-IR. (B) dated 6-8-97 has referred the following dispute for adjudication to this Tribunal:

Whether the action of the State Bank of India Management to terminate the services of Shri Ram Chandra Singh, Cashier-cum-Record Keeper, Latouch Road, Lucknow an account of unauthorised absence from duty w.e.f. 5-10-89 is legal and justified? If not he is entitled to what relief?

2. The case of the concerned workman Ram Chandra is that earlier he was appointed as messenger on 1-10-73. He was confirmed on 10-1-74. He was promoted as Cashier-cum-Record Keeper in May 1986 and was working as Latouch Road branch of the opposite party State Bank of India. In June 1989 he seriously fell ill. After getting his leave sanctioned he left for his native place in Basti on 26-6-89. He continued to remain ill and he regularly applied for leave. On 18-11-89 for the first time he received a letter from opposite party bank that as he has failed to join in spite of notice there had been voluntary cessation of work w.e.f. 5-10-89. Thereafter he applied on 25-12-89 for sympathetic consideration of his case. When after regaining his health he came to join on 17-7-97. He was refused to do so. As orders dated 18-11-89 by which he has alleged to have ceased w.e.f. 5-10-89 was passed without enquiry. It is bad in law. Further he was actually ill.

3. The opposite party has filed written statement in which it has been alleged that the concerned workman was not actually ill. He purposely absented himself. He was issued a notice for his unauthorised absence. In terms of staff circular No. 38 of 1986 it will be a case of voluntary retirement. There was no need to hold any enquiry in this regard.

4. In the rejoinder nothing new has been alleged.

5. The management has neither filed nor shown circular No. 38 of 1986 to the Tribunal. Instead he had filed a copy of letter dated 5-9-89 by which the concerned workman has been asked to join within 30 days of receipt of notice failing which it will be deemed that he had voluntarily retired from service. The Management has not filed the postal receipt and the A.D. of this letter to show that actually this notice was sent to the concerned workman and further that it had reached the addressee. V. K. Shukla MW-1 is the branch manager of the bank who had stated that he has no personnel knowledge about the case. On the other hand the concerned workman Ram Chandra WW-1 has stated that he had never received such notice. Thus it is not proved that any notice dated 5-9-89 was sent to the concerned workman. Hence there could not be any deemed voluntary retirement on the part of concerned workman. Further the case of D. K. Yadav VS. J. M. A Industries Ltd. it has been held that absents from duty without any leave is a misconduct and services could not be terminated without holding an enquiry. In view of this authority the termination of concerned workman is bad in law.

6. As result of above discussion my award is that the act of opposite party in treating the case of concerned workman as that of a voluntary cessation of work and consequently retirement is not justified and is bad in law. Consequently the concerned workman is entitled for reinstatement with back wages from the date of reference.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 25 सितम्बर, 1998.

का. आ. 2058:—औद्योगिक विवाद अधिनियम, 1947 (1947 का. 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ़ हैदराबाद, लखनऊ के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-9-98 को प्राप्त हुआ था।

[संख्या एन-12012/172/96-आर्. आर (बी)/बी. I]
पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 25th. September, 1998

S.O. 2058.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of State Bank of Hyderabad Lucknow and their workman, which was received by the Central Government on 24-9-98.

[No. L-12012/172/96-IR(B)|BI]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE SHRI B. K. SRIVASTAVA PRESIDING
OFFICER: CENTRAL GOVERNMENT INDUS-
TRIAL-CUM-LABOUR COURT DEOKI PALACE
ROAD PANDU NAGAR KANPUR.

Industrial Dispute No. 180 of 1997
In the matter of dispute between:
Chandrapal S/o. Mahendra Kumar Verma
House No. F-1196, Rajaji Puram
Lucknow.

AND

Branch Manager
State Bank of Hyderabad
S.A.S. House-6
Sapru, Marg, Lucknow.

APPEARANCES:

Shri D. P. Dubey—for the workman.

Km Veena Sinha—for the Management.

AWARD

1. Central Government Ministry of Labour New Delhi vide its Notification No. L-12012/172/96-IR. (B) dated 2-9-97 has referred the following dispute for adjudication to this Tribunal:

Whether the action of the management of State Bank of Hyderabad Lucknow to terminate the services of Shri Chandar Pal workman w.e.f. 21-8-95 is legal and justified? If not he is entitled to what relief?

2. The case of the concerned workman Chandar Pal is that he was engaged as Peon by the Opposite party State Bank of Hyderabad on 1-1-93 at Lucknow against a regular post. He continuously worked upto 21-8-95, there after his services were terminated without payment of retrenchment compensation and notice pay. Hence termination of his services is bad.

3. The opposite party has filed reply in which it has been denied that the concerned workman were ever engaged as peon. Hence question of termination being bad does not arise. He has never worked with the bank.

4. In the rejoinder nothing new has been alleged.

5. It's required to be seen if the concerned workman had worked as peon with the opposite party Bank if ever had he completed 240 days in a year. The concerned workman Chandar Pal MW-1 has stated that he was engaged on 1-1-93 and continuously worked upto 21-8-95. In this way he had completed more than 240 days in a year. The concerned workman has also filed Ext. W-1 to Ext. W-8 out of which Ext. W-8 needs mention. It is a certificate issued by the Branch Manager Lucknow to the effect that the concerned workman was working in this branch. Thus this documents lends support to the case of concerned workman that he had worked with the opposite party bank. B. K. Seth MW-1 is the branch Manager of the opposite party bank. His evidence is that the concerned workman was never engaged. However when ever any worker of the opposite party Bank used to go on leave, the concerned workman was engaged. Some times he was also engaged to remove files from the Almirah. He was paid through voucher. From the above it will be evident that this witness had made a departure from the pleadings. In the pleadings it was totally denied that the concerned workman had worked, where as in the evidence of Seth it has emerge out that the concerned workman used to be engaged in leave vacancy. In view of this variance between pleading and proof the evidence of management is weakend. In view of above discussion my finding is that the concerned workman had worked as a peon with the opposite party. It is further held that the concerned workman had continuously worked from 1-1-93 to 20-8-95 and there by he had completed 240 days in a year. Admittedly no retrenchment compensation and notice pay was given to him. Hence his examination is bad in law, being in breach of provision of Section 25F I.D. Act. Any how from the unchallenged evidence of B. K. Seth MW-1 it has emerges out that at Lucknow branch permanent peons were

working. Further the applicant is a daily rated worker. It all shows that he had worked as a peon Temporarily. He cannot be ordered to be reinstated in service as there is no post. Hence he will be entitled for compensation in lieu of reinstatement.

6. Accordingly my award is that the termination of concerned workman is bad in law. Still he will be not entitled for reinstatement. In its lieu he will be entitled to get Rs. 10,000 as compensation.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 25 सितम्बर, 1998

का. आ. 2059:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नोर्दन रेलवे, लखनऊ के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-9-98 को प्राप्त हुआ था।

[संख्या एल--41012/68/96--आई. आर. (बी) बी. 1]
पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 25th September, 1998

S.O. 2059.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Northern Rly., Lucknow and their workman which was received by the Central Government on 24-9-98.

[No. L-41012/68/96-IR(B)] B. I]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE SHRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT DEOKI PLACE ROAD, PANDU NAGAR, KANPUR

Industrial Dispute No. 65 of 1997

In the matter of dispute :

BETWEEN

Divisional Secretary,
Uttar Railway Karamachari Union,
39, II M. J. Multi Storyed Railway Colony,
Lucknow

AND

Senior Divisional Personnel Officer,
Northern Railway, D.R.M. Office,
Hazratganj, Lucknow

APPEARANCE :

Shri D. P. Awasthi—for the Workman
Km. Qamar Jhan—for the Management

AWARD

1. Central Government Ministry of Labour, New Delhi vide its Notification No. L-41012/68/96-I.R.(B), dated 25-4-97 has referred the following dispute for adjudication to this Tribunal;

Whether the action of the management of Sr. D.P.O.N. Rly. Workman not to post Sri J. C. Behal Safaiwala as highly skilled turner or in similar category with temporary status is legal and justified ? If not to what relief the workman is entitled to ?

2. There is no dispute but the concerned workman was originally engaged as Casual Labour by the Northern Railway. Later on he was working as skilled Turner in RDSO Alambagh, Lucknow. He was removed from service on 31-8-73. He filed writ petition No. 10208/73 before Hon'ble High Court adjudicators at Allahabad which was dismissed. The concerned workman filed S.L.P. No. 30324/91. By judgement and order dated 26-2-92 Hon'ble Supreme Court set aside the order of High Court and passed following orders :

Leaving the question of interpretation of paragraph 2501 open we direct the respondents to give fresh employment to the appellant with a temporary status. The respondents may post them in any organisation under their control. We make it clear that the appellants shall not be entitled to back wages or to any other benefit on the basis of their post service as casual labourers.

In compliances of above order the opposits party Railway has given the job of Safaiwala of cadre 'D' under Cash Department Charbagh, Lucknow.

3. By way of present reference the concerned workman has claimed that he is entitled for the post of highly skilled turner at the time of termination. The post of Safaiwala is below the post which he held for the lost time.

4. The opposite party Railway has filed reply in which it has been alleged that the opposite party Railway has complied with the order of Supreme Court.

5. In the rejoinder nothing new has been alleged.

6. The answer to this reference rest on interpretation of operating portion of the order of Hon'ble Supreme Court which has already been quoted above. A more reading of this operation portion go to show that Railway has been directed to give fresh employment to the concerned work-

man with a temporary status. Thus Hon'ble Supreme Court has not said that the concerned workman should be necessarily given the post of Highly Skilled Turner. Description has been left with the employer to give what ever job it found fit.

7. In view of above my award is that in terms of order of Hon'ble Supreme Court the concerned workman is not entitled for the post of Highly Skilled Turner or its equivalent post. Consequently he is not entitled for any relief.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 25 सितम्बर, 1998

का. आ. 2060 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार नोर्वेन रेलवे, इलाहाबाद के प्रबन्ध तंत्र के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-9-98 को प्राप्त हुआ था।

[संख्याएल-41012/108/97-आईआर(डी.यू.)बी. I]
पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 25th September, 1998

S.O. 2060.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Northern Rly., Allahabad and their workmen which was received by the Central Government on 24-9-98.

[No. L-41012/108/97-IR(DU)|B. I]
P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE SHRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, DEOKI PALACE ROAD, PANDU NAGAR, KANPUR

Industrial Dispute No. 51 of 1998

In the matter of dispute :

BETWEEN

Sri Dinanath Tiwari,
Mandal Sangathan Mantri,
Uttar Railway Karamchari Union,
2, Naveen Market Parade,
Kanpur

AND

Divisional Railway Manager,
Northern Railway,
Allahabad Division,
Allahabad

APPEARANCES :

Shri D. N. Tiwari—for the workman
None—for the management

AWARD

1. Central Government Ministry of Labour, New Delhi vide its Notification No. L-41012/108/97-I.R.(D.U.), dated 17-3-98 has referred the following dispute for adjudication to this Tribunal.

“क्या मण्डल रेल प्रबन्धक उत्तर, रेलवे, इलाहाबाद द्वारा श्री राम सबद तिवारी आत्मज श्री राज बहादुर तिवारी विद्युत चालक अन्तर्गत वरिष्ठ विद्युत कार्य-देशक उत्तर रेलवे को दिनांक 1-2-1989 से वार्षिक वेतन वृद्धि बढ़ोतरी करने के उपरान्त उक्त विधि से विद्युत चालक के पद पर पदोन्नति न देना और तदनुसार वेतन निर्धारण का भुगतान न करना क्या श्री राम सबद तिवारी को 1993 की बरीयती सूची में उचित स्थान न देना उचित और वैधानिक है। यदि नहीं तो संबंधित कर्मकार किस अनुतोष का हकदार है ?

2. The case of the concerned workman Ram Sabad Tiwari is that he was working as Electric Driver Goods Train at Kanpur Railway Station. He retired on 31-10-96. Initially he was selected as a cleaner on 18-11-91. In March 1962 he was appointed as 2nd Fireman. In 1974 as Fireman and in 1980 as Shunter. In 1986 he was appointed as 'C' Grade Driver (Steam). In the Pay Slip of December, 1988 his basic pay was drawn as Rs. 1440. His increment became due in February every year. On 17-1-89 he was promoted as Electric Driver Grade 'C' in grade of Rs. 1400—2300 and his pay was fixed Rs. 1480. It ought to have been fixed Rs. 1520. He made representation but no need was paid.

3. Repeated opportunities was given to the opposite party Railway but no written statement was filed.

4. In support of his case his representative Sri D. N. Tiwari WW-1 has been examined. From his evidence compiled with the records the case of the concerned workman is proved. As such entire reference is answered in favour of the concerned workman and he will be entitled for relief as prayed.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 25 सितम्बर, 1998

का. आ. 2061:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उत्तर रेलवे, लखनऊ के प्रबन्ध तंत्र के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबन्ध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-9-98 को प्राप्त हुआ था।

[संख्या एल-41012/146/93-आई.आर. (बी)/बी I.]

पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 25th September, 1998

S.O. 2061.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Uttar Rly., Lucknow and their workman, which was received by the Central Government on 24-9-98.

[No. L-41012/146/93-IR(B)/B.I.]

P. J. MICHAEL, Desk Officer

अनुबन्ध

श्रम मंत्रालय

श्रीमान बी. के. श्रीवास्तव, पीठासीन अधिकारी
केन्द्रीय सरकार औद्योगिक न्यायाधिकरण एवं श्रम न्यायालय
117/एल-1-378-ए, देवकी पैलेस रोड, पाण्डुनगर,
कानपुर

औद्योगिक विवाद संख्या 41/1995

श्री बी. डी. तिवारी

जनरल प्रेजिडेंट, उत्तर रेलवे कर्मचारी यूनियन
96/196, रोजन बज्जल सिन, गणेश गंज, लखनऊ

बनाम

डिविजनल रेलवे मैनेजर

उत्तर रेलवे, लखनऊ

अभिनिर्णय

श्रम मंत्रालय भारत सरकार के निम्नलिखित संदर्भ
अभिनिर्णय हेतु अधिकरण को भेजा जा रहा है।

एल.- 41012/146/93 आई आर बी दिनांक 28-3-95

“क्या डिविजनल रेलवे मैनेजर, उत्तर रेलवे
इलाहाबाद द्वारा कर्मकार श्री सुरेन्द्र सिंह से दिनांक
8-1-88 से हथीड़ा वाला न मामले हुये और उसी
पद का वेतन न देना न्यायोचित है ? यदि नहीं तो
सम्बन्धित कर्मकार किस अनुसोप का हकदार है ?”

1. इस संदर्भ आवेश में श्री सीएम एंथार्ड 13-12-95
को दिया गया था जिसका प्रकाशन हो गया है उसको
20-6-98 को निरस्त कर दिया गया था। सम्बन्धित श्रमिक
सुरेन्द्र सिंह ने अपने लिखित कथन में कहा है कि प्रतिवादी
उत्तरी रेलवे के इटावा स्टेशन पर उसको 20-8-87
को पनकी रेलवे स्टेशन में हैमर मैन बनाकर भेजा
गया और वह इटावा में 8-1-88 से लगातार बतौर हैमर
मैन के 19-3-90 तक काम किया मगर उसको वेतन
गैंगमैन का दिया गया वो कार्य के अनुसार हैमर मैन का
पदनाम व वेतन पाने का अधिकारी है।

2. प्रतिवादी ने अपने जवाब में कहा है कि बी.
न्यू. आर. एस. एक स्थाई जगह उसके अधीन सम्बन्धित
श्रमिक से बतौर कीर्जुअल हैमर मैन का काम लिया
गया। और जब विभाग खत्म हो गया उसको वापस
कर दिया गया सम्बन्धित श्रमिक ने 14-3-90 से बतौर
परमानेंट गैंग मैन का रेगुलरेशन कर दिया गया।

3. अपने प्रत्युत्तर में सम्बन्धित श्रमिक ने कोई नई
बात नहीं कही।

4. दोनों पक्षों की बहस में ये बात स्पष्ट हो जाती
है, सम्बन्धित श्रमिक ने 8-1-88 से हैमर मैन के पद
पर काम किया प्रतिवादी उत्तरी रेलवे इस बात की कोई
साक्ष्य नहीं दी है कि सम्बन्धित श्रमिक बी. न्यू. आर.
एस. के अन्तर्गत बतौर हैमर मैन रखा गया था।
इसके अभाव में सम्बन्धित श्रमिक सुरेन्द्र सिंह डब्ल्यू.
डब्ल्यू.-1 की यह साक्ष्य स्वीकार करता है कि सम्बन्धित
श्रमिक से बतौर हैमर मैन के नियमित रूप वेतन बनाकर
काम लिया गया इस लिये वादी “हैमर मैन” का पदनाम
तथा वेतन 8-1-88 से पाने का अधिकारी है।

5. उपरोक्त विवेचना के आधार पर मैं इस निर्णय
पर पहुंचता हूं सम्बन्धित श्रमिक को हैमर मैन का
पदनाम तथा वेतन 8-1-88 से पाने का अधिकारी है
इसी प्रकार से उसको बरिष्ठता और वेतन के मुगलान
पाने का अधिकारी है।

बी. के. श्रीवास्तव, पीठासीन अधिकारी

नई दिल्ली, 25 सितम्बर, 1998

का. आ. 2062:—औद्योगिक विवाद अधिनियम,
1947 (1947 का 14) की धारा 17 के अनुसरण में,
केन्द्रीय सरकार उत्तर रेलवे, इलाहाबाद के प्रबन्ध तंत्र
के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनु
में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक
अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो
केन्द्रीय सरकार को 24-9-98 को प्राप्त हुआ था।

[संख्या एल-41012/256/95-आई.आर. (बी)/बी I.]

पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 25th September, 1998

S.O. 2062.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Uttar Railway, Allahabad and their workman, which was received by the Central Government on the 24-9-98.

[No. L-41012/256/95-IR(B)|BI]
P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE SHRI B. K. SRIVASTAVA PRESID-
ING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, DEOKI PALACE ROAD, PANDU
NAGAR, KANPUR

Industrial Dispute No. 60 of 1997

In the matter of dispute between :

D. K. Jha
Karyakarni Adhiksh
All India Railway Employees Confederation
181/6 Shastri Nagar, Kanpur.

AND

Mandal Rail Prabhandhak
Uttar Railway
Allahabad Mandal,
Allahabad

APPEARANCES :

Sri D. K. Jha for the workman
Km. Suman Gupta for the management

AWARD

1. Central Government Ministry of Labour, New Delhi vide its Notification No. L-41012/256/95- I.R. (B) dated 3-4-97 has referred the following dispute for adjudication to this Tribunal :

KYA MANDAL RAIL PRABANDHAK
UTTAR RAILWAY ALLAHABAD KE
DWARA SH. GANGADIN S/O GAYA
PRASAD KHALASI KO DINANK
16-12-94 KE ADESH DWARA NUN-
TAM VETAN ME LANE KA DAND
DENA NAYUCHIT AUR VAIDHANIK
HAI? YDI NAHI TO SAMBANDHIT
KARMKAR KIS ANUTOSH KA HAK-
DAR HAI?

2. The concerned workman Gangadin was working as Khalasi under Inspector of Works C.P.C. Northern Rly., Kanpur. He remained absent from 4-7-94 to 8-9-94 unauthorisedly. On the basis of this charge-sheet he has been punished by way of putting back to initial pay and grade with immediate effect by order dated 16-12-94. Feeling aggrieved the concerned workman has raised the instant industrial dispute.

3. In the claim statement, inter alia, the fairness and

propriety of this enquiry was challenged which fact was denied by the opposite party.

4. On the pleadings of the parties a preliminary issue regarding fairness and propriety of domestic enquiry was framed. Vide finding dated 15-5-98 it was held that enquiry was not fairly and properly held. However the management was given opportunity to prove misconduct on merits. Thereafter management examined Rais Ahmad MW-1 who is Section Engineer who stated that the concerned workman had remained absent from duty from 4-7-94 to 8-9-94. On the other hand Gangadin WW-1 has stated that he was on rest on 3-7-94. From 4-7-94 he could not come on duty because of illness. He has sent application for the same. He had applied for leave which was granted. In his cross examination he has stated that he had taken prior permission from his Head Department. In my opinion the plea of illness and taking prior permission is after thought. Hence my finding is that the concerned workman had remained absent without any authority. In this way misconduct is proved.

5. Consequently my award is that the concerned workman is rightly punished and he is not entitled for any relief.

B. K. SRIVASTAVA, Presiding Officer.

नई दिल्ली, 23 सितम्बर, 1998

का. आ. 2063 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एम. सी. सी. एल. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, हैदराबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-9-98 को प्राप्त हुआ था।

[सं. एल.—22012/426/95—आई. आर. (सी.-II)]
बी. के. राजन, डेस्क अधिकारी

New Delhi, the 23rd September, 1998

S.O. 2063.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of S. C. C. Ltd. and their workman, which was received by the Central Government on 22-9-98.

[No. L-22012/426/95-IR (C. II)]
V. K. RAJAN, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL-I
AT HYDERABAD.

PRESENT :

Sri C. V. Raghavaiah, B.Sc., B.L.,
Industrial Tribunal-I, Hyd.,

Monday the 3rd day of August, 1998

INDUSTRIAL DISPUTE NO. 41 OF 1997

BETWEEN :

The Vice President, Central
Council, Singareni Collieries
Workers Union (AITUC),
Coal Chemical Complex-
504302. . . Petitioner/
Workman

AND

The General Manager,
M/s. Singareni Collieries
Company Limited,
Sreerampur (P),
Sreerampur Coal Chemical
Complex-504302. . . Respondent/
Management.

APPEARANCES :

Sri B. Ganga Ram, representative for the
Petitioner.

M/s. J. Parthasarathi, V. Hariharan and A.
Chandra Shekar, Advocates for the
Respondent.

AWARD

The Government of India by its Order No. L-22012/426/95-IR (C. II), dt. 11/14-7-97 made this reference U/s 10(1)(d) and 2(A) of the Industrial Disputes Act, 1947 hereinafter called the Act for adjudication of the Industrial Disputes mentioned in the schedule which reads as follows:

“Whether the action of the management of S.C.C.L. in not paying salary for the period from 18-11-1992 to 8-12-1992 to Shri V. Karunakar Reddy, Surface Mining Sirdar is legal and justified? If not, to what relief is the workman entitled to?”

The reference was registered as I.D. 41/97. Both the parties appeared after being served with notices and the respondent made appearance through counsel and filed their pleadings.

2. The claim statement is filed by the Vice President of the Central Council, S.C.W. Union of the workers with the following allegations :

The workman by name Sri Karunakar Reddy was working as Mining Sirdar in SRP-2 Incline in Sreerampur (P) area, Coal Chemical Complex-504302. While so, on 4-1-92 while he was on duty the said worker met with an accident inside the mine and sustained injury to his lumbar spine and he was treated in area hospital Ramakrishnapuram. He was shifted to Kothagudem and admitted in the main hospital for better treatment. On

30-3-92 his case was reviewed by the Medical Board and he was declared medically unfit to work as Mining Sirdar, as per the letter of the Chief Medical Officer dt. 30-3-92. Due to permanent partial disability, 10 per cent compensation was recommended. 24 months later, The Chief Medical Officer Kothagudem has mentioned in the letter addressed to Medical Superintendent, area hospital, Ramakrishnapuram that the Medical Board has by oversight omitted the word ‘underground’ while declaring the worker as unfit to work as Mining Sirdar. But in the meanwhile, the respondent terminated the worker from his roles with effect from 22-6-92 i.e. 2 months 22 days after he was declared as unfit as Mining Sirdar underground. But on 16-9-92, the workman Karunakar Reddy was appointed as Mining Sirdar (Surface) Grade-C temporarily for a period of 2 months, as he has been declared fit to work as Surface Mining Sirdar. The workman was asked to work at SRP Dispensary till further orders as Mining Sirdar Surface. The workman was terminated with effect from 18-11-92 as his appointment was only for 2 months. But on 8-12-92, the workman K Karunakar Reddy was again appointed as Mining Sirdar Surface for 3 months by the respondent company and he was placed on probation for 3 months. According to the union, the action of the management amounts to unfair labour practice, as no wages were paid for a period of 21 days, i.e. 18-11-92 to 8-12-92 though he is entitled for alternative appointment, as he was declared fit as Mining Sirdar Surface. The petitioner union thus contends that the action of the respondent in terminating service of the workman Karunakar Reddy from 18-11-92 to 8-12-92 amount to retrenchment and that the workman is entitled for wages for the said period being a permanent employee and as the termination of his service during above period is wrongful, illegal and arbitrary. The petitioner prayed to direct the management to pay wages to the workman Karunakar Reddy for 21 days i.e. from 18-11-92 to 8-12-92 holding that the termination of the service of the worker Karunakar Reddy during that period is invalid.

3. The respondent management filed a counter resisting the claim of the union.

It contended that the reference is bad in law as there is no Industrial Dispute as envisaged U/s. 2(k) of the I.D. Act. According to it, the workman is not entitled to relief as he was not regular employee during the period between 18-11-92 and 8-12-92. It has however admitted that the worker Karunakar Reddy worked as Mining Sirdar in Sreerampur (P) in the respondent company and met with accident while he was on duty in the Mine. He was treated in the Main Area Hospital

at Kothagudam. And it was declared by the Medical Board which conducted review that he is unfit to work as Mine Sirdar and permanent partial disability certificate was issued, assessing the percentage of disability as 10 percent and he was paid compensation accordingly. It contended it simply because 2-1/2 months later the Chief Medical Officer has written a letter stating that by oversight the word 'underground' was omitted in the certificate it would not change the material fact as the workman was declared unfit as Mining Sirdar. According to it when an employee was declared unfit to work as Mining Sirdar, it means he is unfit to work in the mines and Mining Sirdar post is a statutory one as per Coal Mines Regulations, 1957 and he is an official appointed to perform the duties of the Supervisor in the mine or part thereof in underground. It thus contended as the said post is essentially an underground job, omission to mention the words unfit as Mine Sirdar 'Underground' would not change the situation. It further contended that the said Karunakar Reddy is not a workman as defined U/s. 2(s) of the I.D. Act, as he has been employed in supervising capacity and drawing wages exceeding Rs. 1600/- per month and in this view of the matter also the reference has to be rejected.

It however admitted that the workman Karunakar Reddy was boarded out with effect from 22-6-92 though he was declared unfit by the Medical Board with effect from 30-3-92 and he was also paid one month's notice wages as per the standing orders and he was later provided alternative employment in terms of the memorandum of settlement dt. 12-3-90. On the application submitted by the worker Karunakar Reddy, though there is no post or suitable employment on surface and as post of Mining Sirdar exist only in the underground mines in Sreerampur Area. It also admitted that the workman was given appointment temporarily for 2 months with a direction to work in dispensary irrespective of vacancy from 18-9-92 to 17-11-92 but during the said period he abused the Medical Officer and attempted to assault him. It denied that the service of Karunakar Reddy was terminated for 21 days. It contended that it has been trying to find some alternative employment or vacancy for the injured employee to rehabilitate him. As there were no requirement or any vacancy of Mining Sirdar on surface in Sreerampur area. it made correspondence with open cast mine at Bellampally, Ramagundam, Manuguru or Yellandu. Though there was no vacancy, the management considered his case on compassionate grounds and provided him alternative employment by way of rehabilitation on surface with effect from 9-12-92, while at the same time protecting his wages in Grade C, and ever since the workman is working continuously. Hence, the intervening period between 18-11-92 to 8-12-92 cannot be deemed to

be retrenchment of service and he is not entitled to any wages for the said period as he was not in service of the company. It denied that the respondent indulged in unfair labour practice by not providing alternative employment or by terminating his service or ignoring the certificate of Medical Board to work as Mining Sirdar surface.

It also contended that as the workman was continuously suffering with ill health his termination would not amount to retrenchment within the meaning of Sec. 2(oo) as per the proviso to the said section. It denied that there is violation of the agreement dt. 12-3-90 in letter or spirit. It contended that as the employee Karunakar Reddy was given alternative job, as his wages was protected i.e. there is no reduction in the scale of pay or in the annual increments and as he has been given continuity of service, the allegation that workman has been harassed or there is breach of the agreement dt. 12-3-90 is baseless. It finally contended that as the workman was not on the rolls of the respondent from 18-11-92 to 8-12-92 and as he has not rendered any service to the company for the period, and as he was boarded out, he is not entitled for the wages for the above period. It thus prayed for answering the reference in the negative by holding that the workman Karunakar Reddy is not entitled to the wages for the period from 18-11-92 to 8-12-92 during which period he was out of service.

4. On the above contentions the following points arise for consideration :

Whether the action of the management of SCCL in not paying salary for the period from 18-11-92 to 8-12-92 to Sri Karunakar Reddy, Surface Mining Sirdar is legal and justified. If not, to what relief the workman is entitled to ?

5. Point : In support of the claim on behalf of union the injured workman Karunakar Reddy was examined as WW1, while the Vice President of the petitioners union examined himself as WW2. The Petitioner has further marked on its behalf Ex. W1 to W12. On behalf of the management the respondent company one Sri V. Raja Gopal Rao, Sr. Personnel Officer was examined as MW1 and Exs. M1 to M15 are marked. Though the petitioner union filed written arguments, no arguments were advanced on behalf of the respondent inspite of giving one week's time and though the matter was reserved for passing the award on 27-7-98.

6. The petitioner union is seeking wages to WW1 Karunakar Reddy, Mining Sirdar Surface for the period from 18-11-92 to 8-12-92 on the ground, termination of the service for that period amount to retrenchment and that the respondent is not justified in terminating the service being a permanent workman and entitled to alternative

job though unfit to work as Mining Sirdar underground as per Ex. W11, W12 settlement which is same as Ex. M9, which is however disputed by the respondent management.

7. Admittedly, WW1 Karunakar Reddy worked as Mining Sirdar underground in the respondent company, since 1983 in M.V.K. 5 incline and later transferred to SRP-2 incline in April, 1984. He joined in the service of the respondent company as worker trainee on 23-12-77. While working in the Mine as Mining Sirdar on 4-1-92 at 8.30 P.M. in the 2nd shift duty, he met with an accident while checking the roof which is part of his duty and which fell upon him. He sustained injury on his spine, head and other parts of the body. He was immediately shifted to the Area Hospital, Ramakrishnapuram and discharged on 17-1-92. He was given Ex. W1 reportable injury report by the Medical Superintendent, Area Hospital, Ramagundem. He took further treatment at Kothagudem Main Hospital belonging to the respondent company. His case was reviewed on 30-3-92 by the Medical Board which issued Ex. W2 certificate which is same as Ex. M4 declaring him 'unfit to work as Mining Sirdar' and holding that the disability as permanent, partial due to Wedge Compressor fracture and the percentage of disability was assessed as 10 per cent. On 15-6-92 a communication was sent by the Chief of Medical Officer to the Medical Superintendent, Area Hospital, Ramakrishnapuram under Ex. W3 which is same as Ex. M5 stating that by oversight the word 'underground' has not been added while issuing Ex. W2 Medical Certificate. Basing on Ex. W2 the workman Karunakar Reddy was issued Ex. W4 which is same as Ex. M6 order terminating him from company rolls with effect from 22-6-92. The workman has however given an application on the same day requesting the management to provide a suitable alternative job and he also gave Ex. M2 application dated 23-7-92 as he was declared unfit to work as Mining Sirdar underground only under Ex. W3, the letter of the Medical Superintendent.

Pursuant to the said applications and having regard to Ex. W11 settlement dt. 12-3-90 which is same as Ex. M9, the management issued Ex. W5 order which is same as Ex. M7 appointing W.W. 1 Karunakar Reddy temporarily as Mining Sirdar Surface in Grade C for a period of 2 months and posted him to SRP dispensary till further orders. Basing on Ex. M8 Medical Fitness Certificate issued by the Medical Superintendent that WW1 workman is fit to work as Surface Mining Sirdar. His service was however terminated on 17-11-92 under Ex. W6 with effect from 18-11-92. He was again appointed on 8-12-92 under Ex. W7 which is same as Ex. M14, as Mining Sirdar Surface and ever since he is working in that post with protected wages, continuity of service and other benefits but he was not paid any wages for the period between 18-11-92 and 8-12-92, though he made representation to the management under Ex. M3 dt.

6-11-93. He was however given Ex. W8 reply dt. 25-11-93 that he is not entitled for wages during the period from 18-11-92 to 8-12-92 as he has not worked during that period, and informing him that his request for continuity of service for the purpose of terminal benefits will however be considered. Aggrieved by the above reply of the management WW1 Karunakar Reddy made Ex. W9 representation on 21-6-95 to the Asst. Labour Commissioner, Mancherial through the petitioner union to initiate conciliation proceedings. The union as well as the representative of the management attended the conciliation proceedings but it ended in failure as per Ex. W10 minutes of conciliation meeting dt. 31-8-95. Hence the reference was made by the Government.

8. The grievance of the workman Karunakar Reddy as ventilated through the petitioners union which took up his cause is that the management is not justified in refusing to pay wages to him for the period 18-11-92 to 8-12-92 as he is entitled to alternative job as per Ex. W11 settlement which is same as Ex. M9 dt. 12-3-90 as he was declared fit for the post of Mining Sirdar Surface though declared unfit as Mining Sirdar underground which is his original post. The contention of the respondent on the other hand is that Ex. M9 settlement was given effect by reappointing WW1 as Mining Sirdar Surface though such post does not exist and he was removed from the rolls from 18-11-92 to 8-12-92 for want of vacancy though the respondent made correspondence with other mines under Ex. M10 dt. 3-9-92 for which it received replies M11 to M13 stating that there are no vacancies in their mines and as WW1 did not work during the above period he is not entitled for wages. According to it the termination of his service for want of vacancy would not amount to retrenchment.

9. As stated above on sustaining injury on 4-1-92 while on duty WW1 was terminated from service under Ex. W4 order basing on Ex. W1 reportable injury report, and Ex. W2 decision given by the Medical Board that WW1 Karunakar Reddy is unfit to work as Mining Sirdar. It would appear that the duty of the Mining Sirdar is to supervise the work of the workmen in the underground of the mines. It would however appear from Ex. W3 letter sent to the Medical Superintendent, by Chief Medical Officer that by mistake they did not mention in Ex. W2 that WW1 is unfit to work as Mining Sirdar 'underground' but merely mentioned as unfit to work as Mining Sirdar. But on receipt of Ex. M8 Medical Certificate dt. 13-8-92 declaring that WW1 is fit to work as Mining Sirdar Surface and pursuant to Ex. M1 and M2 application given by the workman he was reappointed under Ex. W5 dt. 16-9-92 for 2 months temporarily and posted to the area hospital. However he was again terminated from service on 17-11-92 under Ex. W6 to be reinstated later on 8-12-92 under Ex. W7. Ex. W11 is memorandum of settlement entered into

by the management with the workman. As per Clause 17 of the said agreement for an employee involved in a Mine accident was declared medically unfit for underground work but was found suitable for surface job every efforts will be made to offer suitable employment on surface with protection of wages, for an employees medically unfit for underground due to reasons other than the mine accident will be considered for alternative job on surface but without protection of wages and employees found unfit for original job underground will be offered other suitable underground jobs for which they are fit.

9. Pursuance to the said agreement only WW-1 was given alternate job as Mining Sirdar Surface under Ex. W5 dt. 16-9-92 and W7 dt. 8-12-92. The management has agreed to consider the request of the workman WW1 for continuity of service, protection of wages in its reply Ex. W8 while rejecting his request for payment of wages for the period from 18-11-92 to 8-12-92 on the ground that he did not work during that period and he was not on their rolls.

10. I am however of the view that as WW1 was not declared unfit for further service by the Medical Board but only declared as medically unfit as mining sirdar underground, the management is not justified in boarding out the petitioner. He is entitled to suitable alternative job though medically unfit to perform his original job i.e. Mining Sirdar undergrounds. Ex. M8 medical certificate issued by the competent authority would make the point clear as it is mentioned therein that he is fit to work as Mining Sirdar Surface. Basing on the said report and as Ex. W9 which is same as Ex. W11 provides for alternative job in case of employee who suffered accident in Mines, alternative job was given to WW1. I am of the view that the management is not justified in not providing alternative job to WW1 between 18-11-92 to 8-12-92 on the ground that there are no vacancies though it made correspondence under Ex. M10 with the General Manager of Yellandu, Chief General Manager, Ramagundam, who have sent Ex. M11, M-12 and M13 replies stating that there are no vacancies of Mining Sirdar surface in their mines. I am of the view that as WW1 is admittedly entitled to alternative job as per Ex. W11 settlement which is same as Ex. M9 it is the responsibility of the management to provide him alternative job but not to terminate the service from 18-11-92 to 8-12-92 on the ground that he was temporarily reappointed as Mining Sirdar Surface under Ex. W5, and as he has misbehaved while working in the area dispensary with the Medical Officer as per Ex. M15 letter dt. 6-11-92.

11. I am of the view that WW1 should have been given alternative job immediately after receipt of Ex. W3 letter from the Chief Medical Officer dt. 15-6-92 to the effect that by oversight the

Medical Board failed to mention the word 'underground' after the words medically unfit as Mining Sirdar. But unfortunately, the management issued Ex. W4 termination order dt. 22-6-92 though it received Ex. W3 letter before that date. As the WW1 is admittedly entitled to alternative job as he was declared medically fit for mining sirdar surface, the management is bound to provide alternative job to him with protected wages, continuity of service though he is not fit for the original job, as per Ex. M11 agreement. I therefore feel having regards to the facts and circumstances of the case, that the action of the respondent in refusing to pay him wages for the period from 18-11-92 to 8-12-92 on the ground that there are no vacancies or that WW1 did not render service during the said period is not justified as there is nothing in the evidence of M.W. 1 to show that WW1 belongs to Supervisor Category or his salary exceeded Rs. 1600 P.M. The point is hence answered in favour of the workman Karunakar Reddy.

12. In the result, the reference is answered holding that the action of the respondent management in terminating service of the workman WW1 Karunakar Reddy from 18-11-92 to 8-12-92 is not justified and directing it to pay wages for the said period to the workman who while working as Mining Sirdar underground met with an accident on 4-1-92 while he was in duty and suffered fracture resulting in permanent partial disability of 10 per cent.

Dictated to the Sr. Stenographer, transcribed by her, corrected by me and given under my hand and the seal of this Tribunal, this the 3rd day of August, 1998.

C. V. RAGHAVIAH, Industrial Tribunal-I
Appendix of Evidence :

Witnesses Examined for the petitioner :	Witnesses Examined for the Respondent/ Management :
W.W-1 V. Karunakar Reddy	M.W-1 V. Rajagopal Rao
W.W2 B. Ganga Ram.	

Documents marked for the Petitioner :

Ex. W1	Medical Certificate dated 6-1-92 regarding reportable injury.
Ex. W2	Certificate of Medical Board issued to WW1 dt. 30-3-92 which is equal to M4.
Ex. W3	Certificate of Medical Board dt. 15-6-92 issued to WW1 equal to M5.
Ex. W4	Termination order dt. 22-6-92 issued to Colliery Manager, Sreerampur, No. 2 Incline for appointment which is equal to M6.

- Ex. W5 Office order dt. 16-9-92 issued to WW1 for a period of two months, equal to M7.
- Ex. W6 Termination order issued to WW1 dt. 17-11-92.
- Ex. W7 Office order dt. 8-12-92 issued to WW1 appointing for a period of two months equal to M14.
- Ex. W8 Reply given by the General Manager to WW1 dt. 25-11-93.
- Ex. W9 Representation dt. 21-6-95 made by the union to ALC(C) Mancherial.
- Ex. W10 Minutes of conciliation meeting.
- Ex. W11 Settlement between the workmen and the management dt. 12-3-90 which is same as M9.
- Ex. W12 Extract of page 17 and 18 of NCWA-II, dt. 11-8-79.

Documents marked for the Management :

- Ex. M1 Application made by WW1 dt. 22-6-92 to the General Manager for alternative job under wage protection.
- Ex. M2 Application made by WW1 for appointing him as Surface Mining Sirdar at MVTC, SRP(P), dt. 23-7-92.
- Ex. M3 Application made by WW1 to the General Manager, dt. 6-11-93, Kothagudem for continuity of service and payment of wages.
- Ex. M4 Decision given by the Competent Medical Board regarding disability suffered by W.W1, which is equal as W2.
- Ex. M5 Letter issued from CMO to the Superintendent AH RKP, which is same as W3.
- Ex. M6 Termination order dt. 23-6-92 issued to WW1 same as W4.
- Ex. M7 Office order dt. 18-9-92 issued regarding temporary appointment to V. Karunakar Reddy, same as W5.
- Ex. M8 Medical Fitness Certificate dt. 13-8-92 issued to WW1 by Medical Superintendent Area Hospital, RKP.
- Ex. M9 Settlement between the workmen and the management dt. 12-3-90, which is same as Ex. W11.
- Ex. M10 Letter of G.M.SRP(P) Area to the Chief G.M.(BPA) regarding the vacancy to accommodate WW1.
- Ex. M11 Reply given by the General Manager(P) YA to the General Manager SRP(P) Area dt. 10-9-92.
- Ex. M12 Reply given by Chief General Manager MNG(P) to the General Manager SRP(P), dt. 16-9-92.
- Ex. M13 Reply given by CM(RG-III) to the G.M., SRP(P) dt. 20-9-92.
- Ex. M14 Office order issued to WW1 dt. 8-12-92 appointing him as Mining Sirdar Surface, which is same as W7.
- Ex. M15 Intimation of G.M(RKP) to G.M. SRP(P) regarding the assault on the doctor by WW1 dt. 6-11-92.

नई दिल्ली, 25 सितम्बर, 1998

का. भा. 2064 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबन्धतंत्र के संबंध निजीकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-9-98 को प्राप्त हुआ था।

[सं. एल.-12012/227/95-आई आर (बी. II)]
सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 25th September, 1998

S.O. 2064.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Punjab National Bank and their workman, which was received by the Central Government on 24-9-98.

[No. L-12012/227/95-IR (B-II)]
C. GANGADHARAN, Desk Officer

ANNEXURE

BEFORE SHRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, DEOKI PALACE ROAD PANDU NAGAR KANPUR

Industrial Dispute No. 17 of 1997

In the matter of dispute :

BETWEEN :

State President,

Punjab National Bank Karamchari Sangh,
(U.P.) 17/123 Kisanpur Rajpur Road,
Dehradun.

AND

Regional Manager,
Punjab National Bank,
Regional Office,
Income Tax Building,
Teacher's Colony Bulandshahar.

APPEARANCE :

Shri S. P. Singhal—for the workman.
Shri G. K. Kamra—for the Management.

AWARD

1. Central Government Ministry of Labour New Delhi vide its Notification No. L-12012/227/95-IR (B-2) dated 30-12-96 has referred the following dispute for adjudication to this Tribunal :—

Whether the action of the Management of Punjab National Bank Regional Office Bulandshahar in awarding punishment of dismissal from service to Sri Nanak Chand Cashier-Cum-Godown Keeper B. O. Khurja vide orders dated 30-3-93 is just and legal? If not, to what relief is the workman entitled to?

2. The concerned workman Nanak Chand was working as Cashier-cum-Godown Keeper at Khurja Branch of the opposite party M/s. Punjab National Bank. He was served with a chargesheet dated 14-7-92 which runs as under :—

(i) Sri Kunwar Pal Gupta Tendered as Pay-in-slip a sum of Rs. 1300/- (Rupees One thousand and three hundred only) on 24-7-91 for credit to his SF A/C. No. 20222. In token of having received the said sum, you signed on the counter foil of the said pay in slip on 25-7-91 but did not enter the said sum in bank's cashiers Receipt Log Book and the corresponding voucher was not released to cash book department of the branch office Khurja.

(ii) On 16-8-91, a borrower Sri Kripal Singh S/O Sri Shibhu Singh tendered Pay in slip of Rs. 795/- alongwith cash for credit of his term loan account No. RT/69 you entered the said payinslip at S. No. 55 of Bank's Cashiers Receipt log book.

You did not issue any cash receipt to aforesaid borrower Sri Singh. Instead you made another entry of Rs. 2500/- by overting at the same S. No. 55 where you had earlier entered the amount of said pay-inslip of Rs. 795/- received by you.

(iii) You misutilized the cheque book of your savings fund account No. S/24 at branch Office Khurja for cheating Sri V. K. Wadhwa of M/s. Daulat Ram Narendra Pal constituent of the Bank of branch office Khurja by delivering him a self cheque No. KH 746996 dated 10-7-90 of Rs. 500/- and obtained Rs. 500/- in cash from him.

In fact cheque was drawn on your aforesaid savings fund account No. S/24 which has already been closed on 29-6-90 much before the aforesaid self cheque issued by you unscrupulously as even the unused cheque leaves required to be tendered surrendered to the bank at the time of closure of the account were not entered surrendered by you.

(iv) You have indulged yourself in the habit of issuing cheque drawn on branch Office Khurja while there was no balance to support the sum of cheque in your account or even the account was non-existent.

One V. K. Varshnav an officer of the bank was appointed as enquiring officer and after completing the enquiry he submitted his report on 27-2-93. Agreeing with this report and after issuing usual show cause notice, the concerned workman was visited with a punishment of dismissal from service vide order dated 30-9-93. Feeling aggrieved the

concerned workman has raised the instant industrial dispute. Inter alia, the concerned workman has challenged the fairness and propriety of enquiry which fact was denied by the management bank in its reply.

3. On the pleadings of the parties a preliminary issue regarding fairness and propriety of domestic enquiry was framed. Vide finding dated 10-3-98 it was held that enquiry was fairly and properly held. There after parties were heard on quantum of punishment.

4. The Au. Rep. of the concerned workman has carried me through the contents of the chargesheet which have been reproduced above. On this basis he has submitted that the bank has not levelled any charges of misappropriation or forgery in accounts. As such question of loss of confidence does not arise. I have gone through the contents of chargesheet and find that at the most the concerned workman is guilty of various acts of omission and commission attracting negligence on the part of concerned workman. There is no whisper of allegation about misappropriation of money of any customer or making alteration in accounts causing loss to the bank in any manner. In this way it is a case of negligence vis a vis the bank. As regards charge No. 3 and 4 they do not relate to function of bank at all. Thus I am inclined to agree with the Au. Rep. of the concerned workman that it is not a case of loss of confidence. The punishment by way of dismissal from service dated 30-3-93 is disproportionate to the misconduct. I think taking into consideration various acts of negligence steppage of one increment would need the end of justice.

5. Hence my award is that dismissal of concerned workman is bad in law. He will be entitled for reinstatement with back wages. By way of punishment I award that the concerned workman will be deprived one increment for three years from the date 1-1-93. This date has been specified taking to consideration the date of dismissal which has been held bad being disproportionate to the gravity of misconduct.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 25 सितम्बर, 1998

का. प्र. 2065.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में; केन्द्रीय सरकार ओरिएण्टल बैंक ऑफ कॉमर्स के प्रमुखतांत्र के संयुक्त निधोजकों और उनके कर्मचारों के बीच, प्रमुखतांत्र में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-9-98 को प्राप्त हुआ था।

[सं. एल-12012/349/96—आई आर (बी. -II)]

सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 25th September, 1998

S.O. 2065.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the Industrial Dispute between employers in relation to the management of Oriental Bank of Commerce and their workman, which was received by the Central Government on 24-9-98.

[No. L-12012/349/96-IR (B-II)]

C. GANGADHARAN, Desk Officer

ANNEXURE

OFFICE OF THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, 177/H-1/
378-A DEOKI PALACE ROAD, PANDU NAGAR,
KANPUR

Industrial Dispute No. 44 of 1998
In the matter of Dispute between

Shri Sarvesh Kumar Pandey
S/o Late Ram Shankar Pandey
H. No. 20, Kachchi Colony Mehdiganj, Lucknow

V/s.

Asstt. General Manager,
Oriental Bank of Commerce,
C-43/28/1, Naval Kishore Road,
Hazratganj Lucknow.

APPEARANCES :

Workman in person

M. L. Agrawal for the Management.

AWARD

1. Central Government Ministry of Labour New Delhi vide its Notification No. L-12012/349/96 I-R (B-II) dated 29-8-97 has referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of the Oriental Bank of Commerce, Hazratganj, Lucknow in terminating the services of Shri Sarvesh Kumar Pandey w.e.f. 19-3-96 is legal and justified. If not to what relief the said workman is entitled ?"

2. सम्बन्धित श्रमिक ने अपने लिखित कथन में कहा है कि उसको प्रतिवादी ओरियेन्टल बैंक आफ कामर्स लखनऊ शाखा 5-9-91 बतौर चपरासी के नियोजित किया गया उसको 20/- रु. प्रति दिन वेतन मिलता था बाद में "ए" वेतन 25/- रु. कर दिया गया तन्त्र में 35/- रु. प्रतिदिन मिलने लगा उसने 19-3-96 तक लगातार काम किया उसके बाद उसकी सेवा समाप्त कर दी गई उसने अपने लिखित कथन में केवल यह कहा है कि 240 दिन से ज्यादा पूरे कर लिए है इसका उल्लेख नहीं किया कि किस कारण उसकी सेवा समाप्ति अवैधानिक है प्रतिवादी बैंक ने इस बात से इन्कार किया है उनको यहा बतौर चपरासी का काम किया, चपरासी का मिश्रोजन रोजगार वफतर से नाम आने पर टेस्ट से किया जाता है। सम्बन्धित श्रमिक की चाय की दुकान बैंक के पास में ही है जब जरूरत पड़ती थी उसकी पैसा देकर काम ले लिया जाता था।

3. प्रत्युत्तर में श्रमिक पक्ष ने कोई नवीन बात नहीं कही अपने साक्ष्य में सम्बन्धित श्रमिक सर्वेश कुमार पाण्डेय ने कहा है कि उसने 5-9-91 से 19-3-96 तक काम किया उसके बाद बैंक के अधिकारी ने हटा दिया और उसको वेतन भी नहीं दिया। अपने जिरह में उसने स्वीकार किया है कि उसका नाम रोजगार दफतर में नाम नहीं भेजा गया। उसको अन्य लोगों के नाम से वेतन दिया जाता था। सभी भसीन एम० डब्ल्यू.—०१ ने कहा है कि श्रमिक ने कभी चपरासी का काम नहीं किया इनकी चाय की दुकान पास में थी बैंक के कर्मचारियों को चाय सप्लाई करते थे। जब जरूरत पड़ती थी उसने बैंक के काम ले लिया जाता था अपनी जिरह में इस बात से इन्कार किया कि विजय अवस्थी, सुमन तिवारी इनके यहां काम करते थे उसने स्वीकार किया साठे बार साल तक श्रमिक से खाना मंगाया जो कि

परसोनल कन्टेक के वेसिस पर आधारित था। उसने यह भी कहा कि श्रमिक को बिजली का लोन दिया गया मगर इस बात से इन्कार किया कि इसका पैसा उसके वेतन से काटा जाता था। सेवायोजक ने वेतन उपस्थित रजिस्टर की नकल दाखिल की है जिसमें श्रमिक का नाम दाखिल नहीं किया गया है सर्वेश कुमार ने वाउचर की नकलें दाखिल की है जिसमें फोटोकॉपी के सम्बन्ध में अन्य काम कराने के सम्बन्ध में पैसा भुगतान किया गया है।

4. उक्त साक्ष्य से यह प्रमाणित होता है सम्बन्धित श्रमिक चपरासी के रूप में काम नहीं किया है बल्कि उसकी पास में चाय की दुकान थी जिसकी वजह से उसका बैंक में आना जाना था। बैंक के कर्मचारी उससे यदा कदा सामान मंगवा लेते थे इससे उसको चपरासी की स्टेट्स नहीं मिल सकता।

अतः मेरा निष्कर्ष है कि सम्बन्धित श्रमिक से प्रतिवादी के बैंक में चपरासी के पद पर कार्य नहीं किया इसलिए अतः उसकी सेवा समाप्ति का प्रश्न ही नहीं उठता है।

5. उपरोक्त तथ्यों के आधार पर मेरा अभिनिर्णय है कि सम्बन्धित श्रमिक प्रतिवादी बैंक का चपरासी नहीं था ना ही उसकी कभी सेवायें समाप्त की गई, इसलिए सेवा समाप्ति का आवेश अवैधानिक होने का प्रश्न नहीं उठता। सम्बन्धित श्रमिक कोई हितलाभ पाने का अधिकारी नहीं है।

बी. के. श्रीवास्तव, पीठासीन अधिकारी

नई दिल्ली, 25 सितम्बर, 1998

का. आ. 2066 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल बैंक आफ इंडिया के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-9-98 को प्राप्त हुआ था।

[सं. एल.-12012/392/96-आई. आर. (बी. II)]
सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 25th September, 1998

S.O. 2066.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 24-9-98.

[No. L-12012/392/96-IR (B-II)]
C. GANGADHARAN, Desk Officer

ANNEXURE I

BEFORE SHRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, DEOKI PALACE ROAD PANDU NAGAR KANPUR

Industrial Dispute No. 161 of 1997

In the matter of dispute :

BETWEEN :

U. P. Bank Employees Union,
Central Office, 10/2 Patrika Marg,
Civil Lines,
Allahabad.

AND

Regional Manager,
Central Bank of India,
Regional Office Lanka,
Varanasi.

APPEARANCE :

Shri B. P. Saxena—for the Workman.
Shri V. K. Gupta—for the Management.

AWARD

1. Central Government Ministry of Labour New Delhi vide its Notification No. L-12012/392/96/IR (B-II) dated 22-8-97 has referred the following dispute for adjudication to this Tribunal :—

Whether the action of the management of Central Bank of India in awarding punishment of discharge etc. to Sh. Achhey Lal Singh Clerk Central Bank of India Regional Office Lanka Varanasi vide their Memo No. RO/DAD/M-367/229 dated 2-9-95 is justified? If not to what relief the workman is entitled?

2. The concerned workman Achhey Lal Singh was working as clerk at Jaunpur branch of the opposite party Central Bank of India. During the course of his posting he is alleged to have committed certain acts of misconduct in respect of which a chargesheet dated 23-2-93 was issued to him, the copy of which is annexed herewith as annexure-A. According to this chargesheet there were four charges against the concerned workman. He was issued a supplementary chargesheet dated 26-11-93 which comprises of two charges the copy of which is annexure 2.

3. One P. K. Keshwani an officer of the bank was appointed as enquiry officer. During the course of enquiry the management examined the then branch manager R. A. Yadav MW-I besides evidence M-1 to M-47 were filed. The delinquent did not adduce any evidence except filing of EXT. D-I to D-8.

4. After scrutiny of this evidence the enquiry officer vide enquiry report dated 30-3-94, held that charges were proved. Accordingly the disciplinary authority issued show cause notice dated 27-5-94, on the basis of which he was awarded punishment by way of discharge from service by order dated 8-7-94. The concerned workman preferred appeal, that too was dismissed on 2-9-95. Feeling aggrieved the concerned workman has raised the instant industrial dispute.

5. In the claim statement inter alia the fairness and propriety of the domestic enquiry was challenged. In the written statement it was maintained that the enquiry was fairly and properly held.

6. On the pleadings of the parties a preliminary issue regarding fairness and propriety of domestic enquiry was framed. Vide finding dated 30-7-93 it was held that enquiry was fairly and properly held. There after parties were heard on the quantum of proportionality quantum of punishment. The charges which have been found proved to show that the concerned workman has misappropriated the money of the bank which in turn has shaken the confidence of the management Bank. In such a case discharge

from service can not be said to be orionale to the gravity of misconduct. Hence it does not call for interference.

7. Accordingly my award is that discharge of concerned workman by the opposite party bank is justified and the concerned workman is not entitled for any relief.

B. K. SRIVASTAVA, Presiding Officer

CHARGESHEET

Attention of Sri Achhey Lal Singh, Clerk, Suithakalata Branch formerly at Jaunpur Branch is drawn towards our Memo No. RO : PRS/DAD/M-367/92-93/371 dt. 21-10-92 and our Memo No. RO : DAD M1367/465 dt. 24-8-93 which was served on him on 24-10-92 and on 30-8-93 respectively. Mr. Singh submitted his explanation on 4-9-93 in response to above referred both the Memo which is found unsatisfactory.

So it has been decided to hold a Departmental Enquiry against him on the following charges committed by him while working as Clerk/Teller at our Jaunpur Branch which constitute gross misconduct as laid down under Para 19.5(J) of Bipartite Settlement dt. 19-10-66 as amended upto date:

1. While working as Teller/Cashier at Jaunpur Branch he misappropriated the money and intentionally shown a shortage of Cash at the end of the day on many times and the Cash was tallied on those days by the debit CD Miscellaneous account. The details of shortage are :

(a) While working as Teller at Teller Counter No. 1, he had shown a shortage of Rs. 1000 in his Cash on 2-12-92 and Cash was tallied by debit of CD Miscellaneous a/c on 2-12-92 on his request.

(b) Again while working as Cashier on 22-5-93 he had shown a shortage of Rs. 100 and the Cash was again tallied by the debit of CD Miscel. A/c. of the Branch.

(c) He misappropriated the money from Bank Cash which constitute gross misconduct under clause 19.5(J) of the Bipartite Settlement dt. 19-10-66 as amended upto date.

2. While working as Cashier on 21-5-93, he entered the Credit Voucher of Sri Badri Nath for Rs. 1200 only in his school book where as he had received Rs. 2000 from Sri Badri Nath. Further he had not at all entered in his Cash Scroll Book the Credit Voucher of CC A/c. M/s. Ajay Redios of Rupees 1200 which was also received by him on 21-5-93. As such his Cash should have been excess by Rs. 2000 but he declared an excess in Cash Rs. 1430 only. So he misappropriated Rs. 550 on 21-5-93 from Cash. Further the total of his Cash Scroll was Rs. 426757/75 whereas total of Cash as per his details Cash given on Page No. 76 of Cash Scroll comes Rs. 42825 besides coin as such his cash should be excess by Rs. 1500 whereas he had declared an excess of Rs. 1450 only. So he was not only grossly negligent in his working but also intentionally misappropriated the money from Cash which constitute gross misconduct under Clause 19.5(J) of the Bipartite Settlement dated 19-10-66 amended upto date.

3. He had been allotted for application of Interest through various Office Orders by the Branch Manager in HSS Ledger Nos. 16, 58, 59 for the period 1-1-92 to 30-6-92 and HSS Ledger No. 58 for the period 1-7-91 to 31-12-91. even after several reminders which constitute gross misconduct under Para 19.5(J) of the Bipartite Settlement dated 19-10-66 amended upto date.

4. He had joined Office late on the following dates in the month of September 1992 whereas Branch Office time is 9.45 a.m., the details are :

On 2-9-92	at 10-20- a.m.
3-9-92	10-20 a.m.
16-9-92	10-35 a.m.
23-9-92	10-25 a.m.
24-9-92	10-15 a.m.

Further he left office early on the following dates without any permission. The details of them are as under :

On 25-9-92 at 4-15 p.m.
30-9-92 2-45 p.m.

So his frequently coming late to the Office/Branch and early leaving the Office/Branch without permission constitute gross misconduct under Para 19.5(J) of the Bipartite Settlement dated 19-10-66 amended upto dated.

Sri-P. Keswani, Dy. Chief Officer/Enquiry Officer, Zonal Office, Lucknow will hold the Departmental Enquiry against him and the date, time and place of enquiry will be communicated to him by the Enquiry Officer.

Shri A. L. Singh will be permitted to be defended by a representative of a Registered Trade Union of the Bank Employees of which he is a member.

At the enquiry he should keep ready with him all oral and documentary evidence, which he may wish to tender or produce on his behalf and he will also be allowed to cross examine the witness who may be produced by the Management during the enquiry proceedings.

He should inform the Enquiry Officer the name of his representative and the name(s) of witnesses he intends to produce at the Enquiry on his behalf. He is also informed that if he fails to present himself at the enquiry on the appointed date or on the adjourned dates, the enquiry will be held ex-parte and the findings of the Enquiry Officer will be conclusive and binding on him.

P. N. SINGH, Disciplinary Authority

Sri Achchhe Lal Singh,
Clerk,
Suihakalan Branch,
formerly at Jaunpur Branch.

SUPPLEMENTARY CHARGESHEET

Shri Achchhe Lal Singh, Clerk, Lanka Branch, who was formerly posted at Regional Office, Varanasi and earlier to it at Jaunpur Branch was served Memo No. RO/DAD/Misc : 671 dated 10-11-93, Memo No. RO/DAD/Misc/668 dated 9-11-93 and Memo No. RO/DAD/Misc. : 674 dated 19-11-93 which was received by him on 10-11-93, 10-11-93 and 19-11-93 respectively. He was asked to submit his explanation within 3 days of receipt of Memos. Sri Achchhe Lal Singh had not submitted his explanations in any of the above referred Memo till date. Since a Departmental Enquiry is in progress against him in pursuance of the Chargesheet No. RO/DAD/M-367/568 dated 23-9-93 which constitute gross misconduct. It has been decided to issue Supplementary Chargesheet to him and hold a Departmental Enquiry on the following charges also, in the same enquiry which further constitutes Gross misconduct as laid down under Para 19.5(J) of the Bipartite Settlement dated 19-10-66 as amended from time to time.

1. While working as receiving Cashier at Jaunpur Branch, on 27-7-93 he misappropriated Rs. 1900 (Rs. One thousand nine hundred only) from Cash and when detected while tallying his Cash in the evening he intentionally shown a shortage of Cash vide his letter dated 27-7-93 which was at last met by allowing a debit Balance in his HSS Staff A/c of Rs. 599/44. So his above referred act constitute gross misconduct under Clause 19.5(J) of the Bipartite Settlement dated 19-10-66 as amended upto date.
2. While a working as Receiving Cashier on 8-7-93 at Jaunpur Branch he misappropriated Rs. 50 (Rs. fifty only) from Cash and when detected while tallying his Cash in the evening he intentionally shown a shortage of Cash of Rs. 50 vide his letter dated 8-7-93 which was at last met by allowing of an advance of Rs. 50 from CD Miscellaneous Head.

So his above referred act constitutes gross misconduct Clause 19.5(J) of the Bipartite Settlement dated 19-10-66 as amended upto date.

The above referred two charges mentioned at No. 1 and No. 2 in this Supplementary Chargesheet will be treated as Part of First Charge of Chargesheet dated 23-9-93 as Charge Nos. 1-C and 1-D respectively.

3. While working at Regional Office, Varanasi on 9-11-93, he left the office at 4.15 p.m. without taking any permission whereas he had marked the timing in the Attendance Register as 5.15 in advance before leaving the office on 9-11-93.

The above referred act also constitutes gross misconduct under Para 19.5(J) of the Bipartite Settlement dated 19-10-1966 amended upto date.

Sri P. Keshwani, Dy. Chief Officer/Enquiry Officer, Zonal Office, Lucknow will hold the enquiry against him and the date, time and place of enquiry will be communicated to him by the Enquiry Officer. Shri A. L. Singh will be permitted to be defended by a representative of a registered Trade Union of Bank Employees of which he is a member.

At the enquiry he should keep ready with him all the oral and documentary evidence, which he may wish to tender or produce on his behalf and he will also be allowed to cross examine the witness who may be produced by the Management during the Enquiry proceedings.

He should inform Enquiry Officer the name of his representative and the name of the witnesses he intends to produce at the enquiry on his behalf. He is also informed that if he fails to present himself at the enquiry on the appointed date or on the adjourned dates, the enquiry will be held ex-parte and the findings of the Enquiry Officer will be conclusive and binding on him.

P. N. SINGH, Disciplinary Authority

Shri Achchhe Lal Singh,
Clerk,
Lanka Branch.

नई दिल्ली, 25 सितम्बर, 1998

का. आ. 2067.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, ओरिएण्टल बैंक ऑफ कॉमर्स के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-9-98 को प्राप्त हुआ था।

[सं. एल.-12012/414/96-आई. आर. (बी.-II)]

सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 25th September, 1998

S.O. 2067.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Oriental Bank of Commerce and their workman, which was received by the Central Government on 24-9-98.

[No. L-12012/414/96-IR(B-II)]

C. GANGADHARAN, Desk Officers

ANNEXURE

BEFORE SHRI B. K. SRIVASTAVA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL CUM LABOUR COURT, DEOKI PALACE
ROAD, PANDU NAGAR, KANPUR

Industrial Dispute No. 176 of 1997.

In the matter of dispute between :

Sarvesh Kumar Pandey
H. No. 20 Kachhi Colony,
Mehdiganj, Lucknow.

AND

Asst. General Manager,
Oriental Bank of Commerce
C-43/281 Naval Kishor Road,
Lucknow.

AWARD

1. Central Government, Ministry of Labour, New Delhi vide its Notification No. L-12012/414/96/IR(B-II) dated 29th August, 1997 has referred the following dispute for adjudication to this Tribunal :

Whether Sh. Sarvesh Kumar Pandey the workman has worked as temporarily Peon from 5-9-91 to 19-3-96 with Oriental Bank of Commerce, Lucknow? If so to what relief he is entitled to?

2. In Industrial Dispute No. 178/97 the question was as to whether this very concerned workman had worked as peon from 5-9-91 to 19-3-96. In my award dated 10-9-98 on this point has been decided against the concerned workman. For the same reason in this reference also it is held that during the above period the concerned workman had not worked as peon with the opposite party. Hence on this basis he is not entitled for any relief.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 25 सितम्बर, 1998

का. भा. 2068.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विजया बैंक के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण सेक्टर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-9-98 को प्राप्त हुआ था।

[सं. एल.-12012/161/93-आई. आर. (बी. II)]

सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 25th September, 1998

S.O. 2068.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Vijaya Bank and their workman, which was received by the Central Government on 24-9-98.

[No. L-12012/161/93-IR(B-II)]

C. GANGADHARAN, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL,
TAMIL NADU
2nd FLOOR, CITY CIVIL COURT BUILDINGS,
CHENNAI-104

Thursday, the 25th day of June, 1998

26/10 GI/98—8

PRESENT :

Thiru S. Ashok Kumar, M.Sc., B.L.,

Industrial Tribunal.

Industrial Dispute No. 103 of 1993

(In the matter of reference for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the Workmen and the Management of Vijaya Bank, Madras-8).

BETWEEN

The workman represented by
The Regional Secretary,
Vijaya Bank Workers' Organisation,
283, Pycrofts Road,
Triplicane,
Chennai-600005.

AND

The Asst. General Manager,
Vijaya Bank,
Regional Office,
Dugar Towers,
123, Marshalls Road,
Egmore,
Madras-600008.

REFERENCE :

Order No. L-12012/161/93-IR(B. II) Ministry of Labour, dated 4-11-93, Government of India, New Delhi.

The dispute coming on for final hearing on Tuesday, the 31st day of March, 1998 upon perusing the reference, claim, counter statements and all other material papers on records and upon hearing the arguments of Thiru K. M. Ramesh, Advocate appearing for the petitioner-union and of Thiru P. B. Krishnamurthy, & M. Chindambaram, Advocates appearing for the respondent-management, and this dispute having stood over till this day for consideration, this Tribunal made the following :

AWARD

This reference has been made for adjudication of the following issue :

"Whether the action of the management of Vijaya Bank in stopping 4 increments permanently in respect of Shri C. Tamil-selvan is justified? If not, to what relief, he is entitled to?"

2. The main averments found in the claim statement filed by the petitioner-union are as follows :

Thiru C. Tamilselvam, the employee concerned in this dispute joined the services of the respondent Vijaya Bank as Clerk-cum-Typist on 27-7-87, and was posted to work in Ramanaikanpat branch

(Rural). The Divisional Manager of the respondent bank by his order dt. 2-2-90 transferred him from Ramanaickanpet Rural Branch to Triplicane branch, Madras-5 to be relieved forthwith and directed to report for duty at Triplicane branch after availing of 3 days joining time and submit a joining report to the Regional Office, Madras through the Branch Manager, Triplicane. The said transfer was effected since the employee made a request to the Divisional Manager in writing. An employee of the Triplicane branch also made a request to transfer him from Triplicane Branch to Ramanaickanpet branch and accordingly these mutual transfers were ordered. The concerned employee Th. Tamilselvam was not relieved from Ramanaickanpet branch and he was not allowed to handover charge and join duty at Triplicane branch. Therefore, the concerned employee wrote to Divisional Manager and the Branch Manager of Ramanaickanpet branch to relieve him from duty and permit him to join duty at Triplicane branch. The concerned employee Th. Tamilselvam made four such representations on 12-7-90, 25-7-90, 21-8-90 and 6-10-90. Neither the Divisional Manager nor the Branch Manager replied to any of his representations. Thus the delaying of the respondent bank to give effect to the transfer order was not at all justified. The concerned employee was relieved on 13-10-90 and he also joined Triplicane branch. While he was working in Triplicane branch, he was issued a charge sheet dated 25-1-91 alleging that he cheated and impersonated by sending three telegrams on 12-10-90 either by himself or got arranged through somebody else purported to be one from Divisional Office, Madras one from Zonal office, Madras and another one from Asst. General Manager, Personnel, Head office Bangalore to the Branch Manager, Ramanaickanpet branch instructing him to relieve the employee immediately. The concerned employee submitted explanation on 9-3-91 denying the charges levelled against him. The employee sent a representation dt. 11-2-91 seeking certain information/material on which the employee wanted to rely upon for disproving the allegations/charges levelled against him. Not satisfied with the explanation of the employee, the respondent appointed an Enquiry officer and Presenting Officer for a domestic enquiry. The date of enquiry was fixed on 26-4-91. In the enquiry the Presenting Officer produced as many as 18 documents which were marked as Ex. M. 1 to M. 18. The Management filed only copies of the telegrams but not either the originals or xerox copies of the telegrams. The enquiry was nothing but an empty and sham formality. The documents produced by the management did not acquire any evidentiary value in view of the fact that they were brought in without any due respect to the law and procedure connected with the marking of documents as exhibits. The persons who are connected with the alleged incident namely Divisional Manager, Asst. General Manager, Zonal office and Asst. General Manager, Personnel

Department, were not examined as witnesses. The Enquiry officer rejected the request of the concerned employee to summon the above persons. The management failed to prove the charges in the enquiry in a manner known to law. The enquiry conducted against the employee suffers from serious procedural irregularities and also gross violation principles of natural justice. Employee was denied of a fair and reasonable opportunity to defend himself in the enquiry. The Presenting Officer of the respondent made him submissions based on the theory of suspicion and this proposition has been accepted by the Enquiry Officer without proper application of mind. Hence the findings of the Enquiry officer are perverse. The findings are based on assumptions and presumptions which have no value in law. Suspicion however strong, it cannot take the place of proof. The onus of proving the charge rests only on the management and the Enquiry officer in this case has placed the onus of proof on the employee concerned. The Disciplinary Authority accepted the finding of the enquiry officer simply without applying his mind to the evidence on record. Accepting the findings of the Enquiry officer that the employee is guilty of the charges, the second respondent issued second show cause notice dt. 14-11-91 without giving an opportunity of hearing as regards nature of proposed punishment. Para 19.12 of the Bipartite Settlement provides for hearing before imposing punishment. The respondent management has glaringly violated the provision. The employee Th. Tamilselvam has submitted his explanation on 11-12-91. Without properly considering the same, the disciplinary authority passed orders on 31-1-92 imposing the punishment of stoppage of four increments permanently. In the said punishment having the effect of postponing the future increments is not found in the Bipartite Settlement and hence the same cannot at all be imposed. On this score alone the punishment is liable to be set aside. The concerned employee filed an appeal on 18-3-92. The Appellate Authority failed to follow the procedure as laid down in Clause 19.14 of the Bipartite Settlement wherein it has been mentioned that the appeal should be disposed off within two weeks. Even after lapse of 5 months the Appellate Authority was sitting over the appeal preferred by the employee. Only after the concerned employee sent his second representation dt. 23-7-92, the Appellate Authority chose to dispose the appeal by dismissing the same. Appellate Authority has not given any reason for the delay in disposing the appeal and also failed to apply his mind independently regarding the merits of his case and simply repeated the charges and dismissed the appeal. The said order is neither a speaking nor a reasoned order. The disciplinary authority failed to afford personal hearing before imposing the punishment and the Appellate Authority did not pass or dispose of the appeal within the stipulated time. The petitioner prays to pass an award holding that the action of the management

in stopping 4 increments permanently in respect of Thiru C. Tamilselvam is not justified and to direct the respondent to effect increments due to him and to order costs.

3. The main avermen's found in the counter statement filed by the respondent are as follows :—

While working at Ramanaickanpet branch, Thiru Tamilselvam, made request to transfer him to one of the branches at Madras. At his request, he was transferred to Triplicane branch. The bank transferred one Shri G. Trinath from Triplicane branch to Ramanaickanpet branch as a substitute. The said Th. Trinath made representation dated 21-7-1990 mentioning that he has been working in Triplicane branch for the past 7 months and he is undergoing some Ayurvedic Treatment etc. and made a request not to effect the transfer order and to allow him to continue at Madras. Considering his request the transfer order issued to Shri G. Trinath was not given effect to and the management was not in a position to relieve Th. C. Tamilselvam, from Ramanaickanpet branch. Th. Tamilselvam was putting pressure from all sources to get relieved from Ramanaickanpet branch. This is evident from the statement given in his reply dated 9-3-1991. He has also put pressure through All India Vijaya Bank SC/ST Employees Association and to get him relieved from the branch. When the matter was at this stage, the Branch Manager Ramanaickanpet branch received three telegrams on 13-10-1990 purported to have been issued by the Divisional Office, Madras, Zonal Office, Madras and Personnel Department, Head Office Bangalore, respectively. Believing the telegram as genuine the Branch Manager of Ramanaickanpet branch relieved Thiru Tamilselvam on 13-10-1990. On subsequent enquiry, it was found that none of the above three Officers had sent any such telegram. Therefore, there was every reason to believe that the said three telegrams were either sent by Thiru C. Tamilselvam or he got arranged to send above telegrams. Since the act committed by Thiru Tamilselvam amounted to gross misconduct, the Disciplinary Authority took a decision to initiate disciplinary proceedings against him and accordingly a charge sheet was issued to him on 25-1-1991. Instead of submitting his explanation, within 7 days Thiru Tamilselvam submitted a letter dated 14-2-91 requesting certain documents under Clause 19.12(a) of the Bipartite Settlement. The documents called for by the workman are not necessary for replying to the charge sheet and the clause referred above does not contain any inflicting provision to provide documents for replying the charge sheet. The defence that can be taken by the charge sheeted employees is only denial. For more denial of the allegation contained in the charge sheet, perusal of the documents supporting the charges or making available copies of documents for the purpose of replying the charge sheet is not necessary. Since the concerned employee failed to submit any reply to the charge sheet, the Disciplinary Authority decided to conduct an enquiry and appointed the Enquiry Officer and the Presenting Officer. Enquiry Officer issued enquiry notice filing the enquiry on 26-4-91.

In the mean time, the concerned employee sent another letter dated 20-3-1991 requesting to provide him the documents mentioned in his letter dated 14-2-1991 and permitting him to visit Ramanaickanpet branch for personal perusal of the documents. The documents mentioned in his letter dated 14-2-1991 and permitting him to visit Ramanaickanpet branch were not provided to him. The Disciplinary Authority by his letter dated 25-4-1991 permitted the workman to visit Ramanaickanpet branch. This came to the knowledge of the Enquiry Officer during the enquiry on 26-4-1991. Therefore, the Enquiry Officer after completing the preliminary formalities adjourned the enquiry without fixing any date. Subsequently enquiry was held on 25-7-1991, 27-7-91 and 28-7-1991. The Enquiry Officer after going through the Enquiry proceedings and written submissions made by the Presenting Officer and defence representative, came to the conclusion that the charges framed against the employee are proved. The Disciplinary authority after careful consideration of the enquiry records, evidence and findings and the gravity of the Act of misconduct committed by the workman proposed to impose the punishment of dismissal with immediate effect. The proposed punishment and copy of the Enquiry report were made available to the workmen with direction to make representation if any. The workman submitted his representation on 11-2-1991. He did not come forward with any oral representation. The Disciplinary Authority considering the relevant records and representation of the workman, came to the conclusion that the workman has not brought out any extenuating circumstances for reconsidering punishment proposed by the Enquiry Officer. The Disciplinary Authority considering the relevant reconsidered the punishment of dismissal from service and reduced the same to stoppage of four increments permanently with a view to give him an opportunity to improve himself. Not satisfied with the order passed by the disciplinary Authority. The workman preferred an appeal which was rejected. The petitioner union raised Industrial Dispute before the Asstt. Commissioner of Labour, Madras and the conciliation failed. The order issued to Thiru Tamilselvam is based on the transfer policy and also based on the request made by him. One Shri G. Trinath from Triplicane branch was transferred as a substitute for him. The petitioner has admitted that the transfer orders issued to Th. Tamilselvam and Trinath are as mutual transfers. Thiru Trinath made a request to cancel the transfer order issued to him on the ground that he is working at Triplicane branch for the past 7 months only and he has been doing some course at Madras and he has been under going some Ayurvedic treatment. The management also found that the transfer order issued to him is not in conformity with the provisions contained in transfer policy. Therefore, the management was not in a position to give effect to the transfer order issued to him. Since the transfers are mutual unless the bank relieves both the employees concerned it will not be possible to give effect to the transfer orders. Since the bank was not in a position to believe Thiru Trinath, the management was searching for a substitute for Shri Tamilselvam. Believing that the three telegrams received on

13-10-1990 purported to have been issued by Divisional Office, Madras, Zonal Office, Madras and Assistant General Manager (Personnel Department), Head Office, the branch manager of Ramanaickanpet branch relieved Thiru Tamilselvam with a direction to report for duty at Triplicane branch. Subsequently it was found that the telegrams were bogus ones. There were sufficient reasons to believe that telegrams were sent either by Th. Tamilselvam or by accomplice with a view to ensure his relieving from Ramanaickanpet. A reading of Clause 19.12 (a) of the Bipartite Settlement would reveal that the same does not contain any provision to provide copy of the documents to the charge sheeted employee to draft the reply. The defence that can be taken by the charge sheeted employee is only of denial for which purpose copy of the documents are not required. The charge sheet is not vague, and he has understood the contents of the charge sheet properly and he had admitted so during his reply before the Enquiry Officer. The petitioner union has made a futile attempt to advance an argument that the telegram received by the branch were not properly proved in the enquiry. It is a common knowledge that the original telegram application will not be handed over to anybody by the telecommunication authorities. They have given a photocopy of telegram application duly attested by the concerned authority. The defence representative did not raise any objection regarding the documents produced on behalf of the management except relating to Ex. M-3 and M-6. The Enquiry Officer has followed the provisions contained in the awards and settlements and principles of natural justice while conducting the enquiry. The standard of proof required in a domestic enquiry is only a mere preponderance of probability and not evidence beyond the shadow of doubt. The non-examination of Divisional Manager, Asst. General Manager, Zonal Office, and Asst. General Manager (Personnel Department) Head Office, will not come to the rescue of the workman. The workman has not made any request to the Enquiry Officer to summon the above persons as defence witnesses. The enquiry conducted against Thiru Tamilselvam, does not suffer from procedural irregularity or infirmity as alleged by the Union. Fair and reasonable opportunity was given to him during the enquiry. The Disciplinary authority on receipt of the enquiry report has gone through the enquiry proceedings, enquiry report, evidence adduced and other connected documents and applied his mind independently and arrived at the punishment proposed to be imposed on the charge sheeted employee. The concerned employee has made only a written representation and failed to make any oral representation. Though the charge sheeted employee deserved deterrent punishment like dismissal from service, the Disciplinary authority applied his mind while imposing the punishment and ordered only stoppage of four increments which is one of the punishments mentioned in Clause 19.6 of the Bipartite Settlement. The Appellate Authority after careful consideration of the connected records including the grounds of appeal urged by the workman has concurred with the findings of the Disciplinary Authority and disposed the appeal preferred by the workman by his order dated 6-8-92. Even if the Appellate Authority has not dealt the matter in detail the same cannot

be put forth as a ground to set aside the order. The law is well settled that the Appellate or revision authority if it confirms the order of Disciplinary authority, need not give separate reasons if it concurs with the reasons contained in the order of the disciplinary authority. Since the appeal memo dated 18-3-92 submitted by the workman was misplaced, there is some delay in disposing the appeal. Merely because the Appellate Authority could not dispose off the appeal preferred by the workman within the stipulated time it cannot be said that the Appellate Authority has done so with malafide intention as contended by the Union. A reading of Clause 19.14 of the Bipartite Settlement would reveal that the period of 2 months mentioned therein for disposal of the appeal is applicable only in the case of dismissal. The intention behind being that a dismissed employee should not be forced to languish without employment for a longer period. Nowhere in the awards applicable to the banks, or in the Bipartite Settlement, there is any provision that if the appeal is not disposed of within the stipulated period of 2 months, it should be deemed that the appeal has been accepted and order of dismissal has been set aside as prayed for. The union has attempted to prove the entire proceedings are vitiated for the reason that the bank has not displayed Circular No. 8/89 in Notice Board as per Clause 19.14 of the Bipartite Settlement and to substantiate this contention a clerk working in Triplicane branch was examined as D.W.1. When the said circular was issued, Thiru Tamilselvam was working at Ramanaickanpet branch and the said circular was displayed in the notice board of Ramanaickanpet branch. The case of the union is not that the notice was not displayed in the notice board of Ramanaickanpet branch. The attempt of the union by examining DW1 that the circular was not displayed in the notice board of Triplicane branch would not strengthen the case of workman. The punishment imposed on Thiru Tamilselvam is valid, legal and operative. Fair and reasonable opportunity was given to the workman at every stage of the proceedings. The punishment of stoppage of four increments permanently imposed by the disciplinary authority commensurate with the gravity of misconduct committed by him. The respondent prays to dismiss the claim.

4. No witness was examined on behalf of both sides, Ex. M.1 to M.39 has been marked on behalf of the respondent management, by consent.

5. The point for consideration is : Whether the action of Vijaya Bank in stopping 4 increments permanently in respect of Sh. C. Tamilselvam, is justified? If not, to what relief he is entitled to ?"

6. The Point : Thiru Tamilselvam, a Clerk-cum-Typist of the respondent bank joined the services on 27-8-87 and was posted to work in Ramanaickanpet branch (Rural). On his request the Divisional Manager of the respondent bank transferred him by an order dated 2-2-90 to Triplicane branch. The same day by another order one Sri Trinath working in Triplicane branch of Madras was transferred to Ramanaickanpet branch in the place of Thiru Tamilselvam. Both the transfers were mutual. Even though the transfer order was passed on 2-2-90, the workman Thiru Tamilselvam, was not relieved for a long time.

He made four representations to the Divisional Manager on 12-7-90, 25-7-90, 21-8-90, and 6-10-90. He also made representations to the All India Vijaya Bank SC/ST Employees Association. On 13-10-90, the respondent's branch at Ramanaickanpet received three telegrams purported to have been issued by the Divisional Office and Zonal Office, Madras and the Asst. General Manager of the Zonal Office, Madras and Asst. General Manager (Personnel Department), Head Office, at Bangalore. Believing the said three telegrams to be true the Branch Manager of Ramanaickanpet branch relieved the workman on 13-10-90 and the workman later joined at Triplicane branch. Subsequent investigation revealed that the telegrams were bogus. A charge sheet Ex. M-1 dated 25-1-91 was issued to the workman wherein it was mentioned that on 12-10-90, the workman himself sent or got arranged to send three telegrams purported to be one from Divisional Office, Madras, one from Zonal Office, Madras and another from Asst. General Manager, (Personnel Department) Head Office, Bangalore to the Branch Manager Ramanaickanpet branch instructing him to relieve to the workman immediately. On 9-3-91, the concerned employee sent Ex. M.2 letter to the respondent requesting to drop the further proceedings in the matter. Not satisfied with the letter of the workman, Disciplinary Authority appointed Thiru A. B. Shetty, Senior Manager as Enquiry Officer and the said letter is Ex. M.3. Domestic enquiry notice dated 14-3-91 is Ex. M.4. Domestic enquiry was conducted by 3 sittings on 26-4-91, from 25-7-91, to 27-7-91 and 27-8-91. On behalf of the management four witnesses viz., Thiru P. Mohan, Branch Manager, Vellore Branch (MW1), Thiru M. C. Pillai (Divisional Office), Senior Manager Trivandrum (MW2), Thiru P. C. Shetty, Senior Manager Divisional Office, Madras (MW3) and Thiru M. Viswanatha Roy Zonal Office, Madras (MW4) were examined and Exs. M.1 to M.18 were marked. On behalf of the charge sheeted employee four witnesses viz., R. Chandramohan, Clerk-cum-Typist, Egmore branch (DW-1), C. V. Narasimhan Clerk, Moore Street, Branch (DW2), Thiru G. Gnanamurthy Sub-staff, Ramanaickanpet branch (DW3), Thiru S. N. Bajaj, Clerk, Ramanickanpet branch, (DW-4) were examined and Exs. D-1 to D-8 were marked. In the enquiry Th. R. Vijayakumar, Joint Secretary, Vijaya Bank Workers Organisation has appeared on behalf of the charge sheeted employee and also the defence witness 1, 2, and 3 were cross-examined by the Presenting Officer of the respondent management and as far as WD4 is concerned the Presenting Officer of the management has said that he did not want to cross examine DW-4. As far as the enquiry is concerned, the same has been conducted according to the settled procedures of law. The charge sheeted employee has been given sufficient and fair opportunity to be represented by a Joint Secretary of the workman organisation and he has been allowed to cross-examine the management witnesses. A perusal of the enquiry proceedings would show that the enquiry has been conducted in a fair and proper manner observing the principles of natural justice.

7. The Enquiry Officer has held that the charges against workman were proved. Accepting the findings 2630 GI/98—

of the Enquiry Officer, respondent management issued a second show cause notice Ex. M.34 dated 14-11-91, proposing to dismiss the workman from service of the bank with immediate effect. The workman sent his reply Ex. M.35 dt. 11-12-91. The Disciplinary Authority by his order dated 31-1-92 passed final order stopping four increments permanently which will have effect of postponing the future increments. The final order is Ex. M.36. Against the said punishment, the workman sent Ex. M.38 appeal highlighting the financial loss due to stoppage of four increments which will amount to a total of Rs. 1,64,699.88. Since no order was passed in the appeal for more than 4 months, the workman sent a reminder dated 20-7-92 holding that the appeal should have been disposed of within two months and failure to dispose the appeal inspite of more than 5 months would mean that the punishment of stoppage of four increments permanently stands dismissed. On 6-8-92 the Deputy General Manager of the respondent bank dismissed the appeal. Dismissal order is Ex. M.39.

8. The contention of the management is that due to delay in arranging for a substance for the workman Thiru Tamilselvan, he could not be relieved for several months and therefore the concerned workman has either himself or got arranged through somebody else to send the three telegrams to the Branch Manager of Ramanaickanpet branch to relieve him immediately and since he is the beneficiary he should have been the cause for the three telegrams. The contention of the concerned workman is that he was very much present in the bank on 12-10-90 & 13-10-90, the dates on which the telegrams were issued and received and he has not made any arrangement to send these telegrams and this may be a trick played by somebody in the management to rope him into trouble.

9. It would be useful to mention the circumstances and correspondences between the concerned workman and the management and his substitute regarding the transfer of the concerned workman. By an order dated 2-2-90 Ex. M.10 Thiru Tamilselvan the concerned workman was transferred to Triplicane branch from Ramanaickanpet branch and the transfer order specifically mentions that he should be relieved forthwith to join at Triplicane branch after availing 3 days joining time and to submit a joining report. Exactly similar order Ex. M.27 has been issued to Th. Trinath, a Probationary, Clerk-cum-Typist of Triplicane branch. According to the petitioner and also as admitted by the respondent the transfer orders were made only on mutual requests. According to Ex. M.10 and M.27 transfer orders of Thiru Tamilselvan of Ramanaickanpet branch and Thiru Trinath of Triplicane branch both of them should have been relieved forthwith and should have joined the newly posted places after availing 3 days of joining time. Therefore, both of them should have joined in the newly transferred places in the first week of February 1990 itself. But the Branch Manager of both the branches have not relieved them so as to enable them to join in the new places of their posting. On 12-4-90 the Branch Manager of Ramanaickanpet branch has sent Ex.

M.28 letter to the Branch Manager of Triplicane branch asking him to relieve Thiru G. Trinath, Probationary Clerk of their branch so as to enable him to relieve the concerned employee who has been already transferred. The Branch Manager of the Triplicane branch after a long delay of nearly 3 months has sent a letter dated 9-7-90, Ex. M.29 asking the Branch Manager of Ramanaickanpet branch to relieve the concerned employee Th. Tamilselvan, immediately with instructions to report for duty forthwith so as to enable him to relieve Mr. Trinath soon after his returning from training after 16th of that month. The Branch Manager of Ramanaickanpet branch by his letter dated 12-7-90 Ex. M.30 has once again requested the Branch Manager of Triplicane branch to relieve the Clerk transferred to Ramanaickanpet branch so that the concerned employee can be relieved from that branch. He has also sent the letter to the Divisional Manager. Since there was no action on the part of the management either by the Divisional Office or by the Branch Manager of Triplicane, the Branch Manager of Ramanaickanpet once again by letter dated 26-7-90 Ex. M.31 has requested the Branch Manager of Triplicane branch to relieve Thiru Trinath advising him to join duty forthwith and also confirming that they will relieve Thiru Tamilselvan, the workman so as to enable him to join at Triplicane branch immediately. The Branch Manager has also sent a copy of this letter to the Divisional Manager, Divisional Office, Madras for favour of information and necessary instructions. To the above said letter also there was no reply either from the Branch Manager, Triplicane or the Divisional Manager, Divisional Office, Madras. Since the concerned employee Th. Tamilselvan was not relieved from Ramanaickanpet branch for more than 6½ months, he has sent a representation dated 20-8-90 Ex. M.11 to the Deputy General Manager, Liason Officer, SC/ST Cell, Vijaya Bank, Head office at Bangalore, for his redressal of his grievances and also requesting for relieving to enable him to join duty at Triplicane branch, Madras. On 27-8-90, the concerned employee has sent Ex. M.12 letter dated 27-8-90 the General Secretary of the All India Vijaya Bank SC/ST Employees Association, Bangalore wherein he has alleged that the new Divisional Manager who has come from Chandigarh division is supporting the newly recruited Probationary clerk Thiru G. Trinath of Triplicane branch, who is a substitute for him and requested to consider his representations and the main reason being that he belongs to SC community and he has also further mentioned that he has been harassed and even after getting the transfer, he is being subjected to untold suffering. Even after such representations, the concerned employee was not relieved from Ramanaickanpet branch. Therefore on 6-10-1990 he sent a letter to the General Manager of the Vijaya Bank Ex. M.13 requesting him to interfere in the matter and do the needful to relieve him from the branch without any further loss of time. The concerned employee's another letter dated 8-10-90 to the General Manager (Administration) for the same cause is Ex. M.14. Meanwhile the General Secretary, of the SC/ST Association has also sent a representation of the concerned workman and recommended to deal with his grievances by a letter dated 5-9-90 Ex. M.24. While so, Thiru Trinath,

Clerk-cum-Typist of Triplicane branch has sent a representation dated 21-7-90, Ex. M.25 to the Divisional Manager, Vijaya Bank, requesting him to allow to continue in the same branch on medical as well him as educational grounds. The Divisional Manager has made an endorsement in the said application stating that since his transfer is against the policy guidelines of the bank and in view of the problems of the employee he has strongly recommended to cannot the order.

10. The above sequence of correspondence would show that even though the concerned workman and his substitute Thiru Trinath were transferred by an order dated 2-2-90 with instructions to be relieved forthwith and to join in the new stations after availing 3 days joining time they were not relieved as instructed by the transfer orders. The Branch Managers of both Ramanaickanpet branch and Triplicane branch have failed to carry out the orders or instructions given to them. In spite of the letters dated 12-4-90, 12-7-90 and 26-7-90 Ex. M.28, M.30 and M.31 sent by the Branch Manager of Ramanaickanpet branch specifically requesting the Branch Manager of Triplicane branch to relieve Thiru Trinath from Triplicane branch, the latter has not done so. For the letter dated 12-4-90 Ex. M.28 sent by the Branch Manager of Ramanaickanpet branch, the Branch Manager of Triplicane branch has sent a belated reply Ex. M.29 only on 9-7-90 agreeing to relieve Thiru Trinath after 16-7-90. Atleast after 16-7-1990 the Branch Manager Ramanaickanpet branch should have relieved Th. Tamilselvan. But he was waiting for the substitute and requesting the Branch Manager, Triplicane to relieve Th. Trinath by his two letters dated 12-7-90 and 26-7-90 marked as Ex. M.30 and M.31. Copies of these letters have also been sent to the Divisional Office for necessary information. Exs. M.28, 29, 30 and 31 have been sent to the Divisional Manager, Divisional Office, Madras for information and necessary instructions. But the Divisional Office has not taken any action on all these representations and had been simply sleeping over the matter. Probably this callous and careless attitude of the management should have left the concerned workman in a care-own situation. The Divisional Office has not passed any order either to cancel these transfer orders or to keep them in abeyance. On 8-8-90, the General Manager (Administration), has sent Ex. M.33 circular wherein it is mentioned as follows :

"The Relieving authorities in the field and in the administrative units are hereby advised to relieve all the staff who are under orders of transfer except those whose transfer orders are kept in abeyance by the competent authorities.

Non-compliance of the instructions, by the Relieving Authorities will be construed as disobeying the order of Higher Authorities, and will be dealt with accordingly. The competent authorities effecting transfers should take note of the above instructions on transfers for strict compliance."

In spite of these strict instructions to relieving authorities and warning them that non-compliance of instructions will amount to disobeying the order of higher authorities and will be dealt with accordingly, still the branch managers and the Divisional Manager have not taken any action either the representations

of both the employees or on the letters sent by the Branch Managers of Ramanaikanpet branch and Triplicane branch. The various representations of the concerned employee to the administration of the respondent management as well as liaison officer of the SC/ST cell of the respondent management and the Employees Association, would show that the concerned employee was running from pillar to post to be relieved from Ramanaikanpet branch so that he could join at Madras. Ramanaikanpet is a rural area and it is quite natural that the concerned workman wanted to join at Madras City where facilities for education and comfortable living are available. But a perusal of the correspondences mentioned above would show that the management which passed the transfer orders on the Probationary Clerk-cum-Typist Sri Trinath of Triplicane branch wanted to favour him and for that purpose did not relieve him as ordered in Ex. M. 27 transfer order and by saying some reason or the other he was not at all disturbed or relieved. But the management failed to cancel the transfer order or pass an order to keep the transfer order in abeyance and also floated the strict instructions contained in Circular letter No. 276/90 dt. 8-8-90 issued by the General Manager (Administration) (Ex. M. 33).

11. During cross-examination of Thiru Pratap Shetty, Senior Manager who appeared as M.W. 3 in the domestic enquiry for the various questions regarding the transfer of Trinath, he has answered as follows:

Q : DR : What was the problem faced by Mr. Trinath ? Whether his transfer order to Ramanaikanpet was kept in abeyance.

MW3 : He was studying for the exam and taken a house on rental basis, recently. So his transfer was not effected. Further, he has not completed his term in Triplicane branch.

DR : When he has not completed the so-called term at Triplicane why was he transferred to Ramanaikanpet branch ? Are you not aware that as per the bank's transfer policy of clerical staff, the BSRB candidates have to work in rural and semi-urban places.

MW3 : That has been done as per the discussion by the Union representative with the DM.

DR : Then what made the incoming DM, M. Kiran Kumar, to stop the transfer orders ?

MW3 : As this is against the policy guidelines the present DM might have stopped the transfer orders.

DR : Can you tell me if any specific guidelines are available, communicated by HO, not to relieve Mr. Trinath ? Have you put up any note to DM in this regard ?

MW3 : There is no specific communication from HO in this matter. However, note has been put up to the DM as regards request of Mr. Trinath.

DR : Can you tell me as to how specifically the transfer of Mr. G. Trinath is against the policy guidelines of the bank ? Under what circumstances the note appearing on Ex. M. 18 was signed by the DM, Madras ?

MW3 : As Mr. Trinath has not completed two years in the said branch the transfer order has not been effected.

DR : Was it the decision of the DM on his own to cancel the order of Shri Trinath or under the pretext of policy guidelines of the bank ?

MW3 : It is under the policy guidelines of the bank.

DR : Can you show me any circular in this regard as I am not aware of it ?

MW3 : I have to go through the circulars then only I can give the Circular Number.

DR : Have you communicated your decision to the Triplicane branch about the cancellation of transfer order of Mr. G. Trinath ?

MW3 : No.

DR : Then why as Head of the Department you have not complied with the provision of HO Circular No. 276/90, issued by the GM. Admn. of HO (Ext. 8) ?

MW3 : This circular has come in August 1990 whereas this case is prior to that.

DR : Even then the Circular was received in August 1990, with specific instructions to all the Controlling Authorities, why Tamilselvan was not relieved, even after the receipt of the Circular ?

MW3 : As there was request from the BM of Ramanaikanpet to make alternative arrangements for relieving of Tamilselvan we were trying for the substitute ?

DR : When the transfer of Mr. Trinath was not kept in abeyance what prevented you in relieving these two employees as per HO Circular letter ?

MW3 : As Trinath has given representation with genuine reasons, we have not relieved him to Ramanaikanpet branch. As Ramanaikanpet is not having sufficient clerical staff in the branch, Mr. Tamilselvan could not be relieved.

DR : Have you given any instruction to DM, Triplicane branch not to relieve Mr. Trinath ? What is your instruction to BM, Ramanaikanpet vide his letter dt. 26-7-90 (EXD 6) ?

MW3 : I do not remember for having written any letter in reply to Ramanaikanpet branch letter dated 26-7-90. I also do not remember for having instructions to the Ramanaikanpet branch in respect of relieving of Mr. Tamilselvan.

The evidence of MW3 would show that the management not only failed to pass any order of cancelling the transfer order or to keep the transfer order in abeyance, but also showed undue favouritism to Sri Trinath. If really the transfer order of Shri Trinath was against the policy guidelines which ought to have been produced by the respondent management, the respondent management should have cancelled his transfer order. On the other hand the management had been keeping quiet for more than 8 months leaving the concerned workman in troubles and also floating the specific instructions contained in Ex. M. 33 circular letter. When the specific attention of the MW3 was drawn to Ex. M. 33 letter, his reply is that this circular has come only in August 1990 whereas this case was prior to that. The said answer is not only foolish but also ridiculous. Ex. M. 33 the circular itself speaks about strict compliance of the transfer orders passed prior to the issue of the circular. Therefore, the fact remains that the management wanted not to disturb Thiru Trinath from Triplicane branch which resulted in hardships and sufferings and to the workman Tamilselvan from being relieved from Ramanaikanpet branch. The only reason the management has told is that the concerned workman Thiru Tamilselvan could not be relieved for want of a substitute and since the substitute Thiru Trinath was not relieved from Triplicane branch, consequently the concerned workman also could not be relieved from Ramanaikanpet branch. But the two transfer orders Ex. M. 10 and M. 27 issued simultaneously to both the workmen and Thiru Trinath does not speak about the arrival of the substitute. The instructions contained in these transfer orders are that they must be relieved forthwith and must join duty after availing 3 days joining time in their respective places and send joining report. Therefore, the present contention of the management that arrival of substitute was the reason for not relieving the concerned workman Thiru Tamilselvan for more than 8 months is only an after thought. It is pertinent to note that after receipt of the three telegrams even without a substitute the Branch Manager of Ramanaikanpet branch has relieved Th. Tamilselvan. If it was not possible earlier without a substitute, the same position should have been reiterated on 13th October, 1990 also if Sri Tamilselvan could be relieved on 13-10-90 without a substitute, he could be relieved so on 2-2-90 itself. The Manager of Ramanaikanpet branch who received the alleged three false telegrams has not cared to contact the Zonal Office at Madras even though Telephone facility is available at his office itself. Therefore, there was deliberate delay in giving effect to the transfer order of Thiru Tamilselvan. Now we should consider whether the charge against the employees that he himself or arranged through somebody else issued the three telegrams. According to the

espondent management, two telegrams Ex. M-19 and M-20 purported to have been issued by the Divisional Manager and Zonal Manager were sent from Madras on 12-10-90 and a 3rd telegram purported to have been sent by the Asst. General Manager (Personnel Department) Head Office at Bangalore (not produced before this Court) were received by the Branch Manager of Rampet branch on 13-10-90 and based on the telegrams, Thiru Tamilselvan, the workman was relieved on the evening of 13-10-90. The contention of the management is that Thiru Tamilselvan the workman either himself sent the telegram or arranged through somebody else to send these telegrams to give effect to his transfer order MW-1 Branch Manager of Ramanaickanpet branch and MW-3 Pratap Shetty Manager or the Divisional Office have accepted that on 12-10-90 the date on which the 3 telegrams emanated from Madras and Bangalore and on 13-10-90, the date on which the telegrams were received at Ramanaickanpet, the concerned workman was very much present at Ramanaickanpet branch. A perusal of Ex. M-19 would show that the said telegram has been issued on 12-10-90 at 13.00 hours at Madras. A perusal of Ex. M-20 would show that the telegram has been issued at 9.15 hours on 12-10-90 at Madras. Therefore there would be no doubt at all that these two telegrams could not have been issued by the concerned workman who was available at Ramanaickanpet about 170 kms. away. The 3rd telegram said to have been issued from Bangalore has not been produced by the management before this Court. Therefore, the only alternative is whether the concerned workman could have arranged anybody else to send these telegrams. MW-3 Thru Pratap Shetty has admitted that he took copies of the application of the telegram from the Mount Road Telegraph Office as well as Triplicane Post Office i.e. Exs M-19 and M-20. But for a specific question by the defence representative whether he has got any personal knowledge about the so called other persons arranged by Tamilselvan, to send such telegrams, the answer of MW-3 is "No". The presumption of MW-3 as well as Disciplinary Authority and also the Enquiry Officer is that since Thiru Tamilselvan was interested in his transfer telegrams should have been sent by him or others at his behest. The Enquiry Officer wants to rely upon the hearsay evidence and preponderance of probability on the ground that the concerned workman is the interested person or the beneficiary of the bogus telegrams. Even in his findings, the Enquiry Officer has stated that the possibility of sending these telegrams by the charge sheeted employee himself personally is ruled out but certainly the needle of suspicion points clearly at the charge sheeted employee. The Enquiry Officer has mentioned that MW-3 in his evidence attributed that the charge sheeted employee has the motive and that there is strong reason to believe that the alleged misconduct was committed by the charge sheeted employee and none else and therefore, he agrees that the circumstances are also leading to that conclusion. The Enquiry Officer has based his conclusion only on surmises and presumptions and there is no sufficient evidence to connect the charge sheeted employee with the alleged misconduct except the fact that he is the beneficiary and got effect of transfer order by these telegrams. The contentions of the charge sheeted employee is that some other person or probably some one in the management itself could have played this trick to rope him in a departmental proceedings. Neither the Divisional Manager or Assistant General Manager of Madras nor the Asst. General Manager (Personnel Department) Head Office Bangalore on whose names in the telegrams have been sent have not been examined as witnesses in the domestic enquiry. The management has also failed to subject these telegrams for scientific test so as to prove the handwriting or signature of either the concerned workman or authorities purported to have issued the telegrams. The investigation done by the management smacks short or a purposeful investigation leading to a finding of a nexus between the concerned workman and the alleged misconduct. The findings of the Enquiry Officer based on surmises is perverse.

12. The concerned workman has been charged under Clause 19.5(j) of the Bipartite Settlement, 1966. Clause 19.5(j) deals with gross misconducts, and 19.5(j) reads as follows :

"Doing any act prejudicial to the interest of the bank or gross negligence or negligence involving or likely to involve the bank in serious loss.

Therefore, the definition of Clause 19.5(j) involves likelihood of serious loss to the bank by any act done by its employee wilfully or negligently. In this case, there is no evidence to show that the respondent bank suffered any loss or was likely to suffer any loss particularly serious loss as defined in Clause 19.5(j) of the Bipartite Settlement. Therefore, the framing of charge under Clause 19.5(j) against the workman itself is not maintainable.

13. By imposing a punishment of stopping of four increments permanently to the concerned workman, the workman will have to suffer a loss of Rs. 1,64,699.88 as found from his statement in Ex. M-38 appeal preferred to the Deputy General Manager on 18-3-92. The said punishment is not sustainable in view of the reasons mentioned above.

In the result, an award is passed holding that the action of the management of Vijaya Bank in stopping four increments permanently in respect of the workman Thiru Tamilselvan is not justified and the workman is entitled to the benefits of four increments which were already stopped. No costs.

Dated, this the 25th day of June 1998.

S. ASHOK KUMAR, Industrial Tribunal

WITNESSES EXAMINED

For both sides :
None

DOCUMENTS MARKED

For Petitioner/workman :
Nil

For Respondent management :

- Ex. M-1/25-1-91—Charge sheet against the petitioner (Xerox copy)
- Ex. M-2/9-3-91—Letter written by petitioner to the respondent regarding explanation (Xerox copy)
- Ex. M-3/27-2-91—Letter written by the respondent to A. B. Shetty to conduct departmental enquiry (Xerox copy)
- Ex. M-4/14-3-91—Copy of letter sent by Enquiry Officer to the petitioner (Xerox copy)
- Ex. M-5/16-10-91—Proceeding of Departmental enquiry (Xerox copy)
- Ex. M-6/15-10-91—Defence submission by its representative Sri R. Vijayakumar (Xerox copy)
- Ex. M-7/11-9-91—Written argument submitted by management.
- Ex. M-8/26-4-91—Proceedings conducted by A. B. Shetty (Xerox copy)
- Ex. M-9/25-7-91—Proceedings conducted by A. B. Shetty (Xerox copy)
- Ex. M-10/2-2-90—Transfer order of petitioner.
- Ex. M-11/28-8-90—Letter sent by petitioner to the Management requesting him to transfer to Triplicane (Xerox copy)
- Ex. M-12/27-8-90—Letter sent by petitioner to SC/ST Employees Association.
- Ex. M-13/6-10-90—Letter written by petitioner to the respondent to relieve him from Ramanaickanpet branch.
- Ex. M-14/8-10-90—Letter written by petitioner to the respondent (Xerox copy)
- Ex. M-15/13-10-90—Letter written by respondent to the petitioner (relieving order).
- Ex. M-16/20-10-90—Letter sent by N. C. Pillai to the respondent.
- Ex. M-17/12-10-90—Telegram regarding relieving the petitioner (Xerox copy)
- Ex. M-18/31-10-90—Letter from the Head Office to the Zonal Office.

Ex. M-19/—Copy of telegram.

Ex. M-20/12-10-90—Copy of Telegram.

Ex. M-21/25-1-91—Charge sheet.

Ex. M-22/9-3-91—Letter written by the petitioner to the respondent.

Ex. M-23/19-4-91—Letter written by the Personnel Department (HRD), Bangalore to the Assistant General Manager, Zonal Office, Madras (Xerox copy)

Ex. M-24/25-9-90—Letter written by the petitioner to the respondent (Xerox Copy)

Ex. M-25/21-7-90—Letter written by Mr. G. Trinath, Clerk-cum-Typist, Vijaya Bank to the respondent—Divisional Manager, Vijaya Bank (Xerox copy)

Ex. M. 25/5-5-95—Chairman's Special Circular 8/89 (Xerox copy).

Ex. M-27/2-2-90—Transfer order to Mr. G. Trinath (Xerox copy)

Ex. M-28/12-4-90—Letter by the Branch Manager, Vijaya Bank, Ramanaikanpet to the Branch Manager, Triplicane branch (Xerox copy)

Ex. M-29/9-7-90—Letter by the Senior Manager, Vijaya Bank, Triplicane, Madras-5 to the Branch Manager, Ramanaikanpet (Xerox copy)

Ex. M-30/12-7-90—Letter by Branch Manager, Ramanaikanpet branch to the Divisional Manager, DO, Madras, (Xerox copy)

Ex. M-31/26-7-90—Letter by the Branch Manager, Ramanaikanpet branch to Branch Manager Triplicane with copy to Divisional Manager, Divisional Office, Madras (Xerox copy)

Ex. M-32/19-12-90—Letter by Branch Manager, Vijaya Bank, Ramanaikanpet to Mr. C. Tamilselvan, Clerk-cum-Typist Vijaya Bank, Ramanaikanpet (Xerox copy)

Ex. M-33/8-8-90—Circular letter No. 276 dated 8-8-90 (Xerox copy)

Ex. M-34/14-11-91—Letter by Vijaya Bank, Zonal Office Madras to Sri C. Tamilselvan (Petitioner) (Code No. 15952 Clerk-cum-Typist Triplicane branch (Xerox copy)

Ex. M-35/11-12-91—Representation by the petitioner to the enquiry report (Xerox copy)

Ex. M-36/31-1-92—Proceedings of the Disciplinary Authority (Xerox copy)

Ex. M-37/23-7-92—Letter by the petitioner to the Appellate Authority (Xerox copy)

Ex. M-38/18-3-92—Letter by the petitioner to the Appellate Authority (Xerox copy)

Ex. M-39/6-8-92—Appellate order dated 6-8-92 (Xerox copy).

नई दिल्ली, 23 सितम्बर, 1998

का. आ. 2069 --- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुमरण में, केन्द्रीय सरकार सिडिकेट बैंक के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारों के बीच, प्रबन्ध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-9-98 को प्राप्त हुआ था।

[सं. पं. 12012/15/96-आई. आर. (बी.-II)]

सी. गंगधरन, बैंक अधिकारी

New Delhi, the 25th September, 1998

S.O. 2069.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Syndicate Bank and their workman, which was received by the Central Government on 24-9-98.

[No. L-12012/15/96-IR(B-II)]

C. GANGADHARAN, Desk Officer

ANNEXURE

BEFORE SHRI B. K. SRIVASTAVA, PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, DEOKI PALACE ROAD, PANDU NAGAR, KANPUR

Industrial Dispute No. 70 of 1997

In the matter of dispute between :

State Secretary,
Syndicate Bank Employees Union,
Vinay Palace,
Ashok Marg, Lucknow.

AND

Dy. General Manager,
Syndicate Bank,
Zonal Office,
Sky Lark, 43/28, Naval Kishor Road,
Lucknow.

APPEARANCES :

Shri B. P. Saxena for the Workman.

Shri V. P. Srivastava for the Management.

AWARD

1. Central Government, Ministry of Labour, New Delhi vide its Notification No. L-12012/15/96-I.R.(B-2) dated 30th April, 1997 has referred the following dispute for adjudication to this Tribunal :

Whether the action of the management of Syndicate Bank Lucknow not to regularise the services of Shri M. K. Samadhiya workman Varandban Branch, Mathura since 1985 is legal and justified? If not, to what relief he is entitled to?

2. The case of the concerned workman M. K. Samadhiya is that he was on a permanent post engaged as a attender by the opposite party Syndicate Bank at Virndaban branch in 1985. It is further alleged that in those days regular recruitment was ban. Hence he was given temporary posting on a permanent post. He worked upto May 1988 when he was removed from service. He raised the disputed through the union there upon Asstt. General Manager, Lucknow directed the branch manager to maintain status-co. Consequently he was re-engaged. As has worked for more than ten years on a permanent post he is entitled for regularisation in respect of which representation was also made.

3. In the written statement the opposite party has alleged that the concerned workman was never engaged as a attender. Instead he used to be engaged as a Water Boy to supply potable water as and when necessary arose. It is further alleged that branch Manager had no authority to engage attender. Hence the alleged initial appointment itself is bad in law. In this way he can not be regularised. Further the concerned workman was a daily-rated worker. It is also alleged that no permanent post is available at the branch. Lastly it was alleged that through news paper applications were invited for preparation of pannel. The application did not apply. Hence he is not entitled for regularisation.

4. In the rejoinder factual pleas raised in the written statement have been disputed.

5. In support of his case concerned workman examined himself as WW-1, where as the opposite party bank examined Harish Chandra Agarwal MW-1 the present branch Manager,

The concerned workman has also filed Ext. W-1 to Ext. W-18 the genuineness of which was not challenged by the management witness in any way.

6. The 1st point which needs consideration is as to whether the concerned workman was engaged as a attender on a permanent post. The concerned workman M. K. Samadhyia has stated that he was engaged as attender on a permanent post in 1985, on temporary basis. Only one peon attender was working there. On the other hand Harish Chandra Agarwal MW-1 has stated that there are three sanctioned posts of attender which are full. However the names are not given. He has further stated that concerned workman used to be engaged to supply water. The evidence of concerned workman is supported by documents which in turn belie the evidence of Management. Ext. W-1 is the letter dated 30-10-95 by which the branch manager had admitted that the concerned workman was working as attender. Similarly facts has been established by reply of branch manager dated 27-9-95 which Ext. W-2 Ext. W-4 Ext. W-5 and Ext. W-11 are certificates issued by the branch manager to show that the concerned workman was working as a temporary attender. Similar facts is established from Ext. W-13 and Ext. W-14 the information furnished by the branch manager to Asstt. General Manager Lucknow. Ext. W-7 is a reply of branch Manager to Asstt. General Manager dated 31-7-93. Branch Manager had informed that concerned workman is working as attender as a daily rated worker. It appears that Asstt. General Manager had further enquired as to how M. K. Samadhyia is working. Branch Manager has informed that under order of Asstt. General Manager No. ZOLPS/III/88 dated 3-5-88 the concerned workman was engaged. From the above documentary evidence it is convincingly proved that the concerned workman was working as a attender. Branch Manager has further informed that there is no full strength of attenders.

7. In view of above discussion my finding is that concerned workman was engaged as a attender not as a water boy.

8. The next objection of manager is that appointment of concerned workman by the branch manager is bad. This contention is not based on facts. Under the above issue with the help of Ext. W-7 it has already been shown that the concerned workman was engaged with the approval of Asstt. General Manager. Thus there is no flaw in this appointment. Accordingly this point is decided against the management.

9. In the 3rd place it has been seen that if permanent posts are available. As seen above the concerned workman M. K. Samadhyia MW-1 has stated that only one permanent post is full and other are vacant, where as Harish Chandra Agarwal MW-1 has stated that all the three posts are full there is no vacancy. In cross examination he could not give any detail of attender even no document had been filed to show that the strength of Vindrabhan branch there are 3 attenders and permanent employees are engaged there. In this way the management has withheld important information from the court. Hence adverse inference is to be drawn. Further it is unlikely that when there is complete strength of attender the concerned workman would have been allowed to work from May 1985 continuously. In view of above discussion my finding is that permanent post of attender is available.

10. Next management has referred to advertisement of Dainik Jagan New Paper dated 15-2-91 by which the management had invited applications for preparation of panel. The objection of bank is that the applicant ought to have applied for it. As he has failed to do so he is not entitled to regularization. There is no force in this contention, as by this notification only Ex. Clerks, Typist and stenographers were required to apply, where as the applicant was very much in temporary service. Hence there was no need for him to applied.

11. Lastly the management has referred the following cases :—

1. Dr. Arundhati Ajit Pargankar Vs. State of Maharashtra & other 1994 (69) F.L.R. 695.

2. Rajesh Kumar Awasthi V/s. D.F.O. Spl. Forestree Division Fatehpur & other (66) F.L.R. 613.

3. Ravendra Pal Singh V/s. State of U.P. & other (69) F.L.R. 718.

These ruling have no appeal to the fact of the case as they relates to Government Servants who are governed by Temporary Govt. Servant extension of permanence regulation. Further in the instant case the concerned workman has been working as temporarily on a permanent post.

12. In view of foregoing discussion my award is that as the concerned workman had continuously worked on a permanent post temporarily. He will be entitled for regularization since 1985. He will be entitled to get all consequential benefits.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 30 सितम्बर, 1998

का.ग्रा. 2070.—कर्मचारी भविष्य निधि एवं प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) की धारा 16 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और भारत सरकार के श्रम मंत्रालय के का.ग्रा. सं. 3231 दिनांक 21 नवम्बर, 1995 की अधिसूचना के क्रम में केन्द्रीय सरकार की यह राय है कि कतिपय ऐसे प्रतिष्ठानों की, जो सोसाइटी पंजीकरण अधिनियम, 1860 (1860 का 21) के तहत अथवा किसी राज्य में सोसाइटीयों के पंजीकरण के संबंध में कुछ समय के लिए प्रभावी किसी अन्य कानून के तहत पंजीकृत है और जो प्रमुखता केन्द्रीय सरकार अथवा राज्य सरकारों से प्राप्त सहायता अनुदान पर चल रहे हैं, की परिस्थितियों पर ध्यान देते हुए ऐसा किया जाना आवश्यक और समीचीन है, एतद्द्वारा उक्त श्रेणी के प्रतिष्ठानों की पहले वर्णित अधिनियम, की परिधि में 22 सितम्बर, 1997 से 31 मार्च 1999 तक के लिए छूट प्रदान करती है बशर्ते कि ऐसी सहायता अनुदान में भविष्य निधि में नियोजक के अंशदान से संबंधित नियोजक की वेतन को पूरा करने के प्रयोजनार्थ कोई राशि शामिल नहीं हो।

[फा. सं. एस-35011/10/97-एस.एस.०-II]

जे. पी. शुक्ला, अवर सचिव

New Delhi, the 30th September, 1998

S.O. 2070.—In exercise of the powers conferred by sub-section (2) of Section 16 of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952) and in continuation of the notification of the Government of India in the Ministry of Labour S.O. No. 3231 dated the 21st November 1995, the Central Government being of opinion that having regard to the circumstances of certain establishments registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any State relating to registration of societies which are being run mainly on grants-in-aid received from the Central Government

or the State Governments, it is necessary and expedient so to do, hereby exempts the said class of establishments from the operation of the first mentioned Act for a further period up to the 31st March, 1999 with effect from the 22nd September, 1997 subject to the condition that such grants-in-aid do not include any amount for the purpose of meeting the liability of the employer towards the employer's contribution to the Provident Fund.

[F. No. S-35011/10/97-SS-II]
J. P. SHUKLA, Under Secy.

नई दिल्ली, 6 अक्टूबर, 1998

का.आ. 2081.—खान अधिनियम, 1952 (1952 का 35) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार निम्नलिखित अधिकारियों को अगले आदेशों तक मुख्य खान निरीक्षक के अधीन खान निरीक्षक नियुक्त करती है :—

1. राजेन्द्र कुमार अग्रवाल
2. श्री बलबीर सिंह नीम
3. श्री राधे श्याम

[सं.ए-12025/9/95-आई.एस.एच.-II]

सी.डी. भारद्वाज, अवर सचिव

New Delhi, the 6th October, 1998

S.O. 2071.—In exercise of the powers conferred by sub-section (1) of Section 5 of the Mines Act, 1952 (35 of 1952), the Central Government hereby appoints the following officers as Inspectors of Mines sub-ordinate to the Chief Inspector of Mines, until further orders :—

1. Shri Rajendra Kumar Agrawal
2. Shri Balbir Singh Nim
3. Shri Radhey Shyam

[No. A-12025/9/95-ISH-II]

C. D. BHARDWAJ, Under Secy.

